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PORTUGUESE AFRICA AND THE RULE OF LAW

A STUDY OF THE POLITICAL, ECONOMIC and SOCIAL SITUATION OF THE AFRICAN POPULATIONS IN THE PORTUGUESE TERRITORIES OF CONTINENTAL AFRICA

Ph.COMTE

June 15, 1962

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PRELIMINARY NOTE

I.- The quotations from the Political Constitution of the Portugese Republic have been taken from the English translation published in 1953 by the National Secretariat for Information, Lisbon.

Wherever possible, quotations from other Portuguese enactments have been taken from English translations published in the United Nations' Yearbook on Human Rights. Texts of which no translation is available in the Yearbook have been translated into English from the Portuguese original.

II.- The following abbreviations have been used to denote the authors, documents and periodicals most frequently referred to:

A) Lagislative and Statistical Yearbooks

Anuario estatistico	Anuario estatistico de Portugal, published by the Portuguese Government, Lisbon (latest edition:1960).
Anuario Ultramar	Anuario estatistico do Ultramar, published by the Portuguese Government, Lisbon (latest edition: 1957).
Anuario Angola	Anuario estatistico de Angola, published by the Administrative Authority in Angola, Luanda (latest edition: 1959).
Anuario Guinea	Anuario estatistico de Guinea, published by the Administrative Authority in Portuguese Guinea, Bissau (latest edition: 1950/51).
Anuario Mozambique	Anuario estatistico de Moçambique, published by the Administrative Authority in Mozambique, Lourenço Marqués, (latest edition: 1959).
Demographic Yearbook	Demographic Yearbook, published by the United Nations, New York (latest edition: 1960).
Repertory U.N. Practice	Repertory of Practice of United Nations Organs, published by the United Nations, New York. Vol.IV (1956), and Supplement No. II (1959).

Statistical Yearbook	Statistical Yearbook, published by the United Nations, New York (latest edition: 1960).
Y.H.R.	Yearbook on Human Rights, published by the United Nations, New York (latest edition: 1956).

B) Authors

Addicott	Len Addicott, Cry Angola! (London: SCM Press Ltd, 1962).
Bohm	Elemer Bohm, la Mise en valeur des colonies portugaises (Paris: P.U.F., 1931).
Davidson	Basil Davidson, The African Awakening (London: J. Cape, 1955).
Duffy	James Duffy, Portuguese Africa (Cambridge: Harvard University Press, 1959).
Durieux	A. Durieux, Essai sur le statut des indigènes portugais de la Guinée, de l'Angola et du Mozambique (Brussels: Académie des sciences coloniales, 1955).
Egerton	F. Clement C. Egerton, Angola in Perspective (London: Routledge & Kegan Paul, 1957).
Favrod	Charles-Henri Favord, le Poids de l'Afrique (Paris: le Seuil, 1958).
Figueiredo	Antonio de Figueiredo, Portugal and its Empire: the Truth (London: Victor Gollancz, 1961).
Gunther	John Gunther, Inside Africa (London: Hamish Hamilton, 1955).
Hailey	Lord Hailey, An African Survey (Revised 1956) (London: Oxford University Press, 1957).
Mondlane	Eduardo Mondlane, Mozambique, in Africa in the Modern World, pp.233-244, (Chicago: University of Chicago Press, 1955).
Ritner	Peter Ritner, The Death of Africa (New York: Macmillan, 1960).
Ross	Edward A. Ross, Report on Employment of Native Labour in Portuguese Africa (New York, 1925).
Spence	C.F. Spence, The Portuguese Colony of Mozambique: an Economic Survey (Cape Town: A.A. Balkema, 1951).

C) Survey and Official Documents

African Labour Survey	African Labour Survey, "Studies and Reports" - New Series, No.48, published by the International Labour Office, Geneva 1958.
C.A.B.E.	Congo-Angola Border Enquiry, report on the visit of Mr. George Thomas, M.P. and the Rev. Eric L. Blakebrough to the Congo-Angola Border, August, 1961; published by the Angola Action Group, Southend-on-Sea (Essex, England)
Economic Survey of Europe in 1953	Economic Survey of Europe in 1953, published by the Economic Commission for Europe (Document E/ECE/174), Geneva, 1954.
I.L.O. Records	Stenographic record of the hearings at the I.L.O. Commission's second session (September 18-30, 1961) and documents appended to the Commission's report (see I.L.O. Report below). Copies of the records and appended documents have been placed in the library of the International Labour Office in Geneva.
I.L.O. Report	Report of the Commission Appointed under Article 26 of the International Labour Organisation to Examine the Complaint Filed by the Government of Ghana concerning the Observance by the Government of Portugal of the Abolition of Forced Labour Convention 1957 (No.105), published by the International Labour Office, Official Bulletin, Vol. XLV, No.2, April 1962, Supplement II.
I.N.S.E.E. Survey	Economic survey of Portugal and the Overseas Provinces published by the Institut national de statistique et d'études économiques, Paris, August 1961 (roneographed).
Mozambique's Economy	Special issue of the New York Herald Tribune (European Edition), Paris, April 1961).
Report of Ad Hoc Committee	Report of the Ad Hoc Committee on Forced Labour, published by the International Labour Office (United Nations document E/2431), Geneva, 1953.

Situation économique des colonies portugaises	Situation économique des colonies portugueses, survey published by Documentation française, "Notes et études documentaires" Series, No.1,964, Paris, December 27, 1954.
S.N.I.	Publications of the National Secretariat for Information, Lisbon.
U.N. Report	Report of the Sub-Committee on the Situation in Angola, published by the United Nations, New York, (Document A/4978, November 22, 1961).
World Survey of Education	World Survey of Education (Vol.II), published by U.N.E.S.C.O., Paris, 1960.

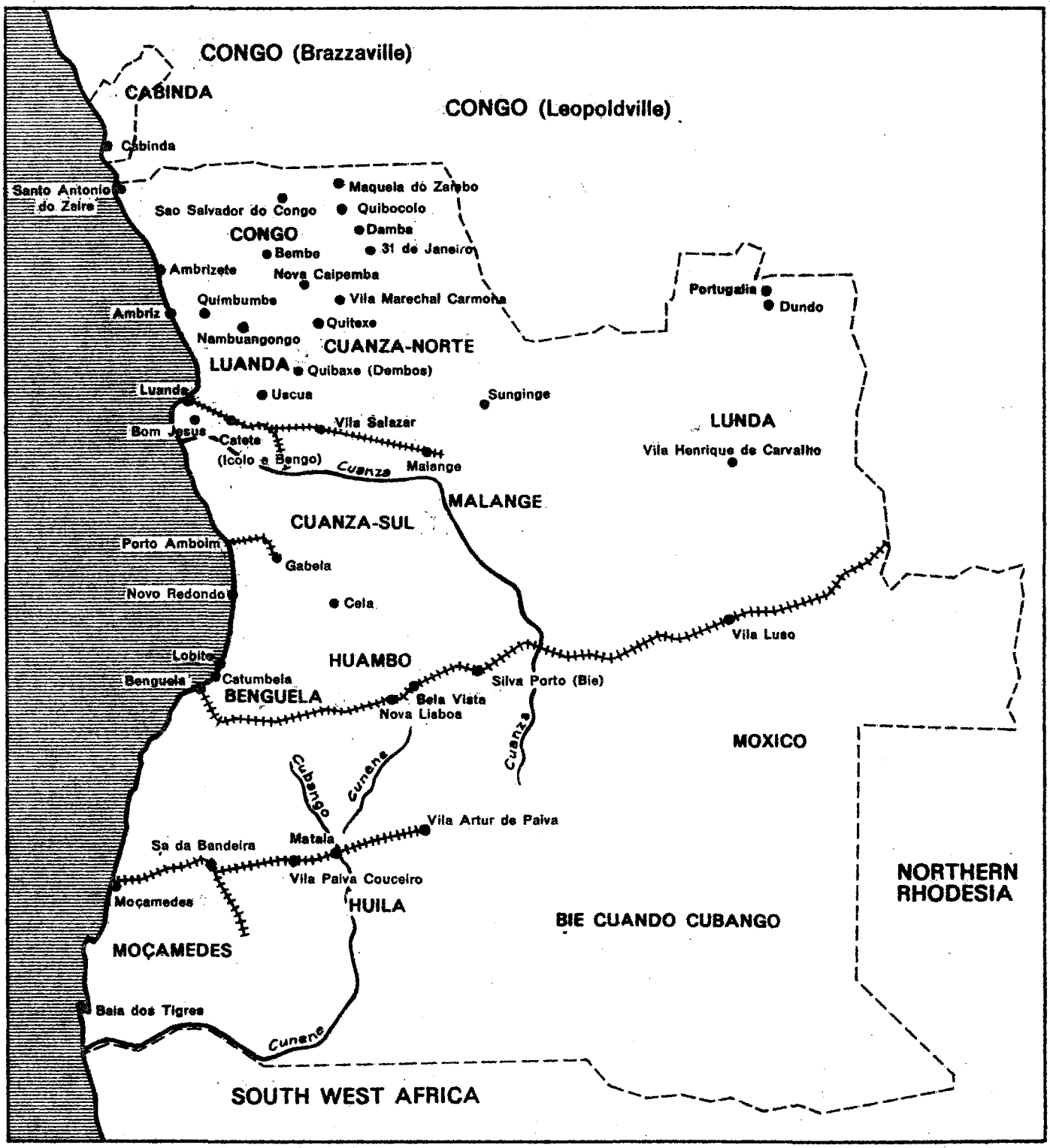
D) Periodicals

Africa	Africa, Journal of the International African Institute (London: Oxford University Press).
Bulletin	Bulletin of the International Commission of Jurists (Geneva).
Civilisations	Civilisations, quarterly published by the International Institute of Differing Civilizations (Brussels).
P.A.	Présence africaine, a Cultural Review of the Negro World (Paris).
P.C.B.	Portuguese and Colonial Bulletin (London).
Portugal I.R.	Portugal: an Informative Review, periodical published by the National Secretariat for Information (Lisbon).
Recueil	Recueil des Cours de l'Académie de droit international (Leyden).
R.G.D.I.P.	Révue générale de droit international public (Paris).
U.N.R.	United Nations Review, published monthly by the United Nations Office of Public Information (New York).

III.- All money values are given in escudos, the basic Portuguese currency unit, or in contos (1 conto = 1,000 escudos).

Rates of echange at January 1, 1962, were as follows:

Argentina	peso	0.35	escudo (s)
Belgium	franc	0.57	"
Brazil	cruzeiro	0.15	"
France	nouveau franc	5.75	"
Italy	lira	0.045	"
Spain	peseta	0.47	"
Switzerland	franc	6.60	"
United Kingdom	pound sterling	80.00	"
United States	dollar	28.60	"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Sao Salvador do Congo
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Damba
Bembe
31 de Janeiro
Ambrizete
Nova Caipemba
Quimbumbe
Vila Marechal Carmona
Portugalia
Dundo
Ambriz
Quitexe
Nambuangongo
CUANZA-NORTE
LUANDA
Quibaxe (Dembos)
Luanda
Uscua
Sunginge
Vila Salazar
LUNDA
Bom Jesus
Catete
(Icolo e Bengo)
Cuanza
Malange
Vila Henrique de Carvalho
MALANGE
CUANZA-SUL
Porto Amboim
Gabela
Novo Redondo
Cela
Vila Luso
Lobito
HUAMBO
Benguela
Catumbela
Silva Porto (Bie)
BENGUELA
Bela Vista
Nova Lisboa
MOXICO
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Cubango
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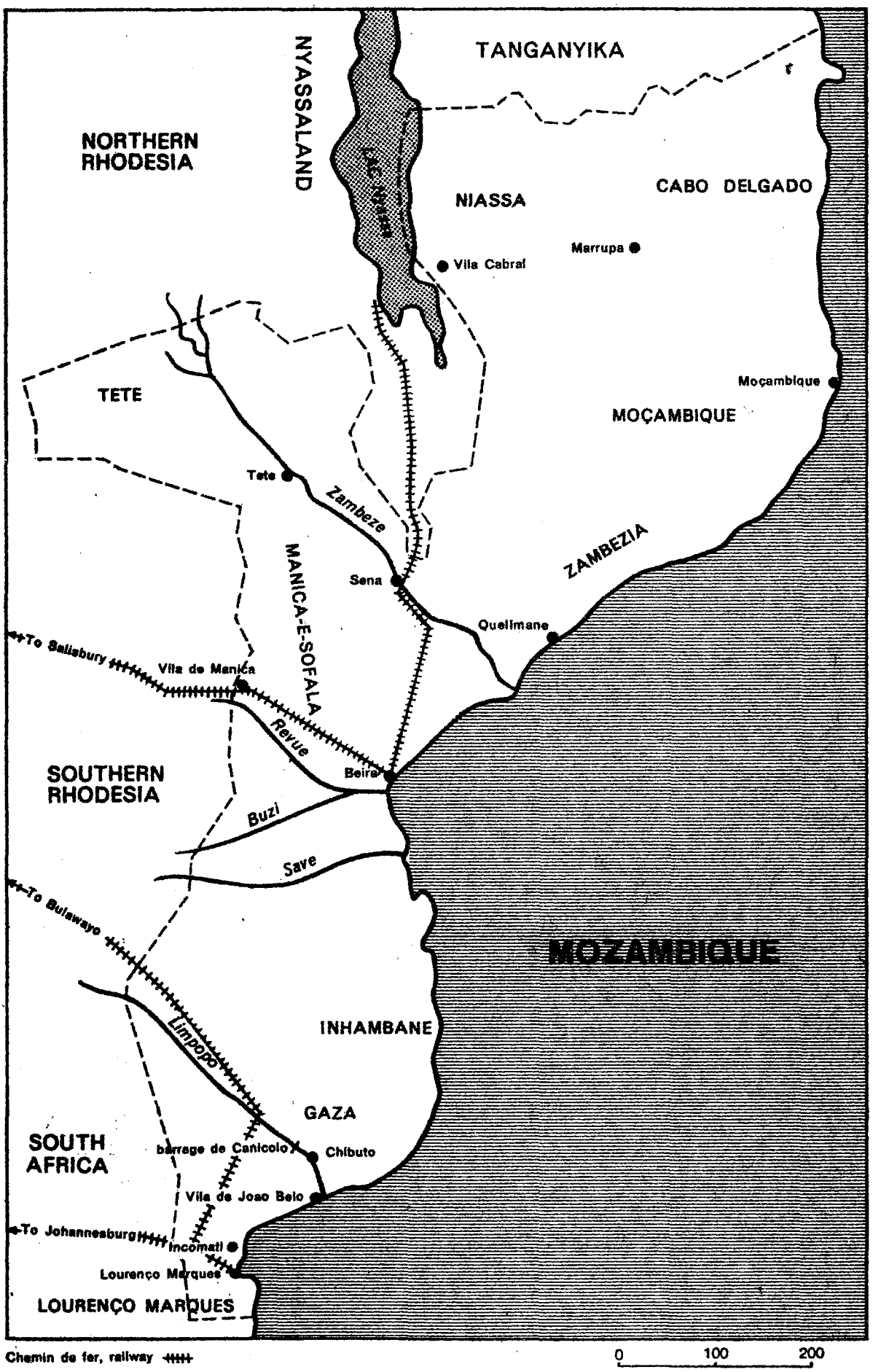
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MANICA-E-SOFALA
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Quelimane
To Salisbury
Vila de Manica
Revue
Beira
SOUTHERN RHODESIA
Buzi
Save
To Bulawayo
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INHAMBANE
Limpopo
GAZA
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INTRODUCTION

> The greater the cause, the warmer the nest it offers to hypocrisy.
>
> André MALRAUX, L'Espoir.

I. Portugal was the first European nation to open the road to discovery, expansion and conquest outside of Europe. In 1415, at Ceuta, King John I established Europe's first foothold on the African continent. With this act and the subsequent appointment of his young son, Prince Henry, as "State commissioner for maritime expansion", a process began which was to culminate a century later in Portugal's command of the sea routes across the South Atlantic and Indian Oceans and in a colonial empire consolidating its possessions on three continents. In the course of its sixty-year Union with Spain (1580-1640) Portugal lost to Holland some of its Asian and Far Eastern possession. Some two centuries later Brazil seceded. However, with the birth of the Empire of Brazil in 1822 there dawned a period of stabilization that has had every appearance of being permanent and final: after two world wars and at a time when decolonization is removing the last remnants of the British, French and Dutch empires, the Portuguese colonial empire has remained - at least up to a few months ago - exactly as it was the day after Brazil's secession. This fact alone may well explain why Portugal and its overseas territories have been so much to the fore on the international scene in recent years. Even prior to the events in Angola and Goa, which brought tension to a peak, the very existence of Portugal's overseas territories had already given rise to heated debate in the United Nations General Assembly. More recently, the events in Angola and the Goa affair have been discussed on more than one occasion by the Security Council. Moreover, two international commissions, one appointed by the United Nations General Assembly and the other by the

International Labour Organisation, have during the course of 1961 been conducting an enquiry into the situation existing in certain territories of Portuguese Africa. Still more recently, the mission of the first of those commissions has been extended, and another commission has been set up by the General Assembly to gather informations on all overseas Portuguese territories. The question of Portugal's colonies has thus been raised as one of the major international problems of today.

II. But is there, in fact, a Portuguese colonial problem? The Portoguese Government has always denied it. Its viewpoint is well known and has never varied, at least not since the advent of the Salazar regime which has always been known as the Estado Novo. If there were a problem, we are told, then it would be purely of an internal nature; to raise it at the international level is to close one's eyes to a fundamental fact, the unity of the Portuguese nation. Dr. Antonio de Oliveira Salazar, Prime Minister of Portugal since 1932, has frequently pointed out that his government's policy towards the overseas territories is based on that principle. On June 13, 1933, at the inaugural session of the first Empire Conference, he stated:[1]

> Angola, Mozambique and India are under the sole authority of the State in exactly the same way as Minho or Beira. We are a juridical and political whole...We constitute variety within unity, a field of common interest. Compared with other countries, we form a unit which is everywhere one and the same ...First and foremost, as our finest and noblest task, we must organize the increasingly effective and ever better protection of the inferior races (sic) whose initiation to our Christian civilization is one of the boldest tenets and noblest endeavours of Portuguese colonization...This glorious but weighty task might well break the strongest of backs and bow the hardiest of minds if, by virtue of a kind of historical predestination, we were not

> already long accustomed to struggle, toil and suffering so that we might discover new lands and enable new peoples to receive the light of civilization.

Twenty-six years later, in a speech delivered on May 23, 1959 before the chairmen of the National Union district committees, and in which he voiced violent criticism of the Western Powers' policy regarding decolonization, Dr. Salazar remarked: "The present and immediate need is to save Africa...and to avoid its destruction by formulas that we know would be fatal to it."[2] He then went on to say:[3]

> By what miracle is there peace from Cap Verde to Timor, and why is it that all can see for themselves the tranquil life of the populations? How is is that we can traverse all Angola or Mozambique with no other aid than the goodwill of the native, his brotherly help, fundamentally the fact that he feels himself to be Portuguese? Why does the native of Angola or Mozambique, when abroad, say that he is Portuguese? Or, when he has never left his birthplace, why does he know that he is Portuguse and that there it is also Portugal? This fact ...signifies that there is a work of human understanding and sympathy which from generation to generation builds up an interracial contact that is invaluable; this is the basis for the solution of the problems of Africa, for without it they can have no lasting solution.

Addressing the National Assembly on November 30, 1960, Dr. Salazar stated that Portugal, "a composite nation - Eurasian and Euro-African", had brought to the populations of other continents "concepts of a nature quite different from those which characterized later forms of colonization".[4] Quoting the example of Brazil, which had been moulded by three hundred years of Portuguese administration, he added:[5]

> A multi-racial society is therefore possible, be it Portuguese-American as in Brazil, or of Portuguese-Asiatic stocks as in Goa, or still, as we find in Angola and Mozambique, based on Portuguese-African association. There is not, nor has there ever been, anything which could lead us to the opposite conclusion. The simple fact is that these societies exclude all racialism - be it white, black or yellow - and spring from the toil of centuries within the principles underlying Portuguese settlement...We have been in Africa for 400 years, which is not quite the same as having arrived yesterday. With us, we carried a doctrine, and this is not the same as being carried by self-interest. We are present there with a policy which the administration is steadily following and defending, something different from abandoning the destiny of human beings to the so-called "winds of history".

Still more recently, in a speech made on June 30, 1961 during an extraordinary session of the National Assembly and at the height of the Angola crisis, Dr. Salazar bitterly criticized the United Nations for its intervention in a matter that, in his opinion, lay solely within the competence of the Portuguese Government:[6]

> There was a serious misunderstanding in considering the Portuguese overseas territories as mere colonies. It was a mistake to think that our Political Constitution could integrate dispersed territories without there existing a community of feelings sufficiently expressive of the unity of the Nation. It was an error to believe that Angola, for example, could be kept calm and hard-working...if peaceful intercourse in friendship and work were not the greatest single feature of the province. With good faith, all mistakes would be rectified at once

> in view of the attitude of whites and blacks, the victims of indiscriminate terrorism, who proclaim that they will not abandon their land and that their land is Portugal.

Let us turn to another authority, General Norton de Matos, an unsuccesful candidate in the 1949 presidential election and previously Governor General of Angola. In his book Africa Nossa, published in 1953, he writes:

> We want to assimilate to us, completely, the black inhabitants of Angola, Mozambique and Guinea, we wish to people, intensively and rapidly, these African provinces of Portugal with Portuguese families of the white race; we wish the nation to comprise a single people, composed of descendants of our race and the races we have assimilated to us,,.We wish One Nation, the result of complete and perfect National Unity... We do not want separation by race or colour in Portuguese lands, wherever they may be; we do not wish the least social, political or administrative discrimination to exist among the Portuguese people.

This idea of the fusion of several races in the crucible of a common civilization has been expounded to great length by Dr. Gilberto Freyre; the contacts established, from the 14th century onwards, between the Portuguese and the native populations of the tropical regions have, he maintains, given rise to a new type of civilization which he calls lusotropical and which he sees as characterized by the primacy of cultural over ethnic factors; as a result "the blackest of blacks of tropical Africa is considered Portuguese without having to renounce some of his dearest habits of an ecologically tropical man".[7] Limiting our examination solely to the official texts we can perhaps define Portuguese policy as follows:

1. As regards its principle, it is based on the fulfilment of the Portuguese nation's historic missionary calling as it derives from the so-called "Patronage of the East" (padroada do Oriente); this is specifically mentioned in Article 133 of the Constitution and three centuries of history are claimed as evidence of the said vocation;

2. As regards its aims, it aspires to create a political and spiritual unit, embodied in the Portuguese nation, out of differing ethnic groups cohabiting one and the same geographical area; the process of assimilation which is to lead to a multiracial Luso-African or Luso-Asian society is, moreover, a one-way process: it is for the native population to raise itself up to the level of civilization attained by Western Christendom.

3. As regards the means employed, racial discrimination is claimed as being foreign to Portuguese policy; the indigenous populations of the overseas territories are Portuguese nationals and the territories themselves are "provinces" no less than the ten provinces of Metropolitan Portugal.

III. Such are the arguments. At the United Nations and elsewhere the Portuguese colonial empire is held up as an anachronism. Lisbon's reply is that there is no such thing as a Portuguese colonial empire; there is a Portuguese nation of a specific and indissoluble nature and whose political and spiritual unity is in no way prejudiced by its heterogeneity. The present study is concerned with but one, albeit essential, element of the Portuguese Government's policy. We shall attempt to define, as it exists at the moment, the political, economic and social situation of the native populations in the Portuguese territories of continental Africa.

A few remarks are perhaps called for regarding the attitude of mind in which this work was undertaken.

1. The geographical limits of the present study have already been defined: we hsall examine solely the territories

situated in continental Africa, i.e., Guinea, Angola and Mozambique. There are two reasons for this. Firstly, these three provinces are - as the table opposite shows - by far the largest in both area and population. Secondly, in spite of recent reforms the political and administrative status of these provinces is still of a highly special nature, as will be seen in the opening chapter.

2. This study is neither a political pamphlet nor an eye-witness account of current happenings. It is therefore in no way centred on Angola and even less so on the events that have taken place there since March 15, 1961. We shall deal with those events simply as one particular case within the perspective of the overall problem. What we shall attempt to define are the general, permanent conditions created in the three provinces by Portuguese legislation and administration. This has called for the most careful combing out of source material: an administrative text or a statistical document is more instructive than a descriptive travelogue. Though we have not altogether ignored the abundant literature that exists on this subject, we have given the major part of our attention to the official documents (texts and statistics) published by the Portuguese Government and to the reports recently submitted by the two international commissions already mentioned, namely that of the United Nations and that of the International Labour Organisation.[8]

3. The study of Portuguese legislative texts often proves a difficult business. There would seem to be three facets to such texts. a) By their very substance they frequently point to the existence of a problem. If the Constitution includes certain clauses regarding the prohibition of forced labour or the protection of native property then it is clear that such provisions betoken certain problems. b) The text is sometimes drawn up in such a way that one brief and apparently innocuous article can deprive an entire chapter of any real effect. An example of this will be found when we come to examine the constitutional provisions in respect of public freedoms. One is

	Metropolitan Portugal			Overseas Provinces							
	Mainland	Adjacent Islands	Total	Cape Verde	S.Tomé and Principe	Angola	Mozambique	India	Macao	Timor	Guinea
Area (in square kilometres)	88,516	3,102	91,618	4,033	964	1,246,700	783,030	4,194	16	14,925	36,125
Population =											
1950 Census	7,856,913	584,399	8,441,312		60,159						510,777
1960 Census (provisional figures)				201,549		4,832,677	6,592,994	625,831	169,299	517,079	

Source: Anuário Estatistico - 1960 - pp. 9 and 329

reminded of the "doublespeak" gloomily forwshadowed in George Orwell's 1984. c) Finally, as the most impartial and reliable observers point out, there is often a gulf between the letter of the texts and their implementation, particularly as carried out by the lower-grade officials of the colonial administration authorities. We shall return to this point on a number of occasions. The most authoritarian Governments are sometimes the worst served; which fact is by no means peculiar to Portugal.

IV. The general plan of our study is as follows.

The question of assimilation forms the central core to the problem. Moreover, assimilation - officially held up as the guiding principle of Portuguese policy - is understood in two senses: assimilation of the overseas territories to the metropolitan territory and assimilation of the natives to Portuguese nationals. Our first chapter will examine the principle and limits of this process of integration. We shall then procede to determine the position of the native population vis-à-vis the political and administrative institutions of the provinces (Chapter II) and to examine the form and extent of the public freedoms and civil rights within the framework thus established (Chapter III).

The next step will be to study the economic and social situation of the African population. A brief outline will be given of the basic economic structure of the provinces (Chapter IV) before we pass on to examine the social conditions (Chapter V) and, in somewhat greater detail, the organization of labour (Chapter VI) in respect of the native populations.

To complete our survey we shall then attempt to determine the nature and extent of the internal resistance forces that are opposed to Portuguese administration - it is here that we shall speak of the particular case of Angola (Chapter VII) - and to place the problem of Portugal's African provinces in its international perspective (Chapter VIII).

We hsall by then be in a position to draw conclusions and to estimate the degree to which the political, economic and social situation of the native populations in the three Portuguese provinces of Continental Africa is in keeping with the general principles of the Rule of Law.

V. In conclusion it is perhaps necessary to make one point perfectly clear so as to avoid any possible misunderstanding.

When Indian troops forcibly occupied the Portuguese territories of Goa, Damao and Diu at the end of December 1961, work on the present study had already begun. Those territories were in any case outside the scope of this work. It must be understood, however, that such criticism as we shall be led to make, in the pages that follow, of Portugal's colonial policy and administration are in no way to be taken as expressing tacit condonement of the act of aggression committed by the Indian Government. From the standpoint of international law Portugal, as we shall see, is not blameless; but this circumstance cannot excuse one of the most flagrant violations ever to be made of the United Nations Charter since it came into force.

We have headed this introduction with a piece of wordly wisdom from Colonel Ximenes in L'Espoir: "The greater the cause, the warmer the nest it offers to hypocrisy." The full force of this paradox is brought out in the course of the pages that follow. May he who hastens to assume that it applies solely to Portugal think twice! For we believe that there are many countries that would do well to ponder on it and would profit from the lesson it teaches us.

N O T E S

1 Salazar, Doctrine and Action, London (Faber), 1939, pp. 175 and 177.

2 Speech of May 23, 1959, S.N.I., p.12.

3 Idem, p.12.

4 Speech of November 30, 1960, in Portugal IR, No.6 (1960),p.358.

5 Idem, p.359.

6 Speech of June 30, 1961, in Portugal IR, No.3 (1961),pp.128-129.

7 Gilberto Freyre, Portuguese Integration in the Tropics, Libon 1961, p.47.

8 The United Nations Sub-Committee was established by resolution 1603 (XV) adopted by the General Assembly on April 20, 1961 and was instructed "to examine the statements made before the Assembly concerning Angola, to receive further statements and documents, to conduct such enquiries as it may deem necessary and to report to the Assembly". The Sub-Committee submitted its report on November 20, 1961 (Document A/4978 of November 27, 1961). The conditions under which the Sub-Committee carried out its enquiry are described in Chapter VIII. The International Labour Organisation Commission was appointed by decision of the Governing Body of the I.L.O. on June 19, 1961. It submitted its report on February 21, 1962 (I.L.O. Official Bulletin, Vol.XLV, No.2, Supplement II, April 1962). The conditions under which the Commission conducted its work are referred to in Chapter VI, Section II, §4.

CHAPTER ONE

INTEGRATION: THE THEORY AND ITS LIMITS

As has been said, the principle of integration, which is the essence of the Portuguese Government's official doctrine, has two quite distinct though complementary aspects: at the level of the collectivity integration means equality of status between the overseas territories and the metropolitan territory and their fusion in the political unity of the Portuguese nation; at the level of the individual integration means the legal assimilation of the Asian and African natives to the nationals of Metropolitan Portugal. These processes will be examined separately in the two sections that follow.

Part I

THE POLITICAL UNITY OF THE PORTUGUESE NATION

On October 28, 1960, at Lourenço Marques, Dr. Castro Fernandes, Chairman of the Executive Committee of the National Union, delivered a speech before the Government authorities of Mozambique. After having dismissed "the myth of African nationalism" and claimed that the "barbarous states" of the pre-colonial era had never progressed beyond the tribal stage, he went on to say:[1]

> The Portuguese provinces in Africa are justly considered...a real oasis of peace...where the inhabitants live in security and calm in the shade of the

> Portuguese flag...because (these) provinces have long been considered as parts of Portugal, as Portuguese as the provinces in Portugal in Europe, as the Minho and the Algarve (emphasis added).

A few weeks later, at Luanda, Dr. Fernandes stated:

> Here in Africa we have constructed Luso-African societies from the close intercourse of whites and blacks. Their cohesion has never been affected by ethnic prejudices and has always ignored both black racism and white racism. These societies are fully part of the Portuguese Nation, within whose framework they have been formed and consolidated. The political unity of Portugal is the expression of an undeniable reality which lies in the nature of things (Emphases added).

The political unity of the Portuguese nation is thus considered as being part of the mechanism of history and due to "force of circumstances". In the light of this claim and before analyzing the institution as they exist at present, we shall examine their historical precedents.

§1. Political Unity against the Historical Background of Portuguese Colonial Policy

In addition to the various spokesmen of the Portuguese Government there are a number of apologists for Portuguese colonial policy, such as Colonel F.C. Egerton, who draw a rather oversimplified picture of Portugal's colonial history. When the Portuguese navigators and explorers first landed on the African coast they found, it is claimed a political vacuum. Devoid of any mercantile or imperialistic intention and of any feeling of

racial superiority, their sole thought was to spread forth the benefits of Christian civilization; and from the very outset they established friendly and human relations with the native inhabitants. Egerton goes so far as to claim that the Portuguese are "the only Europeans to have succeeded in Africa" because they have always considered the territories in which they settled as "integral parts of the national territory".[2] The political unity of the Portuguese nation is thus said to have a centuries-old tradition behind it. As evidence of this, reference is made to a ruling established in 1612 by the Council of the Indies - which at that time superintended the administration of all overseas possessions - and according to which:[3]

> India and other overseas territories, the administration of which concerns this Council, are neither distinct nor separate from this Kingdom, nor do they belong to it by an act of union. They are members of the same Kingdom, just like the Algarve or any other of the European provinces. They are governed according to the same laws and by the same authorities. They enjoy the same privileges as are granted to those provinces of this Kingdom.

Engaging though this picture is, it leaves two important facts out of account. First, it is quite untrue that the Portuguese found a political vacuum in Africa. When Diego Cao dropped anchor in the estuary of the Rio Zaire in 1482, he found two highly-organized African kingdoms, the Loango and the Congo, already established on either side the river, and King John II was subsequently obliged to negociate a protectorate treaty with their common suzerain, the Manicongo. When Bartholomew Dias rounded the Cape and set foot on the east coast of Africa in 1488, the Kingdom of Monomotapa already stretched from the Zambesi uplands to the Gulf of Sofala. A further point of prime importance is that while to the west of the meridian fixed by the Papal Bull inter caetera and, later, by the Treaty of Tordesillas, Spain colonized in depth, Portuguese colonization

was to remain for four centuries of an essentially pin-point nature. On the accession of John II in 1481, the navigators had begun to dot the west coast of Africa, from Arguim to the Gulf of Guinea, as well as the Cape Verde and S. Tomé archipelagos, with a chain of fortified positions which were, in fact, simply relay stations. In 1500, under Manuel the Fortunate, Alvarez Cabral landed on the Brazilian coast after having set out for the Cape of Good Hope; but he established no base there. A few years later, Alfonso de Albuquerque, conqueror of Goa, Malacca and Ormus and a firm supporter of pin-point colonization, established positions at various points controlling the sea routes, but went no further. Morever, King John II had now laid down the ceremonial act that was to solemnize the future appropriation of territory by the expeditionary leaders: A padrao, or stone pillar, bearing the arms of Portugal and the date of its erection, was to be set up on the coast.[4] Very often the "occupation" of the territory was left at that. There was, however, one important exception: from the end of the 16th century onwards we find a high rate of Portuguese emigration - forced or voluntary - centred on Brazil. The suger-cane farming that was introduced into the territory was quick to develop. This development required a growing labour force and Portugal, like, indeed, many other European nations, organized the large-scale transportation of African slaves to its possessions in America. By reason of its geographical situation opposite Brazil, the West African territory lying to the south of the estuary of the Rio Zaire and which the Portuguese had named Angola - a name taken from the title of a local sovereign - became a large and indispenable reservoir of slave labour. Small Portuguese garrisons settled around the few fortified localities and, in fact, did excellent work: the growing of maize, manioc and suger-cane was introduced and the natives were taught how to farm them. But penetration into the interior was limited to small police expeditions and such sallies as were necessary to the capture of slaves; and the attempts at colonizing the Huila and Bie plateaux remained disappointing. In Mozambique, on the east

coast of Africa, the Crown introduced the system of prazos around the middle of the 17th century. Under this system tens of thousands of acres, together with almost complete sovereign rights thereover, were handed out to concessionaires; direct occupation was confined to a number of coastal localities, and it has been said that in 1810 the extent of such occupation was more or less exactly as it had been two centuries earlier.[5]

During the 19th century, several new factorsbrought about an appreciable change in the attitude behind Portuguse colonization. In 1815 the Congress of Vienna outlawed slave trade, and slavery itself was finally abolished in the Portuguese colonies in 1869. In 1822 Brazil seceded from Portugal. That same year the Liberal Party came to power in Lisbon and Portugal's first Constitution was declared as likewise applying to the overseas colonies. In 1885 the Berlin Congress ruled that the legitimacy of colonial possessions depended on their effective occupation. The era of pin-point colonization was over and Portugal now had to change its policy to one of colonization in depth; in this it was ably served by a number of outstanding Governors, including Antonio Enes, Mousinho de Albuquerque and Paiva Couceiro. It was a time of high ambitions, with Commander Serpa Pinto attempting to join up Angola and Mozambique and with the Lisbon Government aspiring to transform its South African territories into a new Brazil. But the attempts at systematic colonization failed; though Indian immigration reached high figures in Mozambique, white immigration was never more than a trickle; in 1900 Angola's white population totalled 9,000, almost all of whom were civil servants. James Duffy, who is on the whole a benevolent observer of Portuguese colonial policy, has written: "Given these facts, it is difficult to accept the hackneyed picture of Portugal as a country of colonizers".[6] It is equally difficult to accept the argument claiming that vast territories - whose penetration, until the beginning of this century, had never progressed beyond the immediate environs of a few strategic localities - have benefited over several centuries from complete equality of status with the metropolitan provinces.

In point of fact, the status of the overseas territories has varied with the ups and downs of the general policy applied. Let us, for example, start with the year 1822, when Portugal acquired its first written Constitution. The tendency was at that time towards liberalism, and the 1822 Constitution formally proclaimed the principle of the unity of political status and legislation binding the colonies and Metropolitan Portugal. In 1832 the term "colonies" was replaced for the first time by that of "overseas provinces". By the same token, and despite violent opposition from the Conservatives, the natives of those provinces were given the status of Portuguese nationals. The practical significance of these reforms was, however, extremely slight at a time when most of Angola lay outside the control of the authorities and the Government was engaged in an uphill struggle with the natives and prazeros in Mozambique. Towards the end of the century, such dynamic Governors as Antonio Enes and Mousinho de Albuquerque realized that complete political integration was prejudicing their own authority. They succeeded in persuading the Lisbon Government of the need to decentralize power, to bring the organs responsible for making decisions nearer to the territories in question and to establish an individual statute for each colony which would be suited to the particular conditions prevailing there. For now it was once again a question of "colonies", and the first aim was to establish in each of them a powerful administrative fabric. Under the statute given to Mozambique in 1907 and to Angola in 1911, power was essentially transferred to the Governors and a local legislative body. While it was still a matter of deconcentration rather than decentralization, the centrifugal tendency gathered momentum with the advent of the Republican Government in 1911. Under a law passed in 1914 Angola was to be given an extremely wide measure of administrative autonomy; but the application of this law was suspended owing to the outbreak of the First World War. In 1920 a statute made Angola and Mozambique administratively and financially autonomous, the powers being divided between elected assemblies and a High Commission representing the central

authorities. It would appear that the assemblies responsible were not all that discerning in the use they made of their authority over budgetary matters, for the territories' financial position was soon to become disastrous. However, those who supported autonomy remained undiscouraged. General Norton de Matos, Governor-General of Angola in 1920, was one of those who dreamed of transforming the territory into another Brazil, an independent republic dominated by a white minority and with an exclusive emigrant pipeline from Metropolitan Portugal.

In 1926 came the Braga pronunciamiento and the Estado Novo. In April 1928, Dr. Salazar became Minister of Finance and one of his first concerns was to bring the territories' finances into order. To achieve this, however, called for a complete reversal of the trend to autonomy. Dr. Salazar proceeded to carry out that reversal, taking, as he did so, guidance and inspiration from past history; for to re-establish the direct power of the central authorities over the overseas territories was simply to return to the guiding principle of the 1822 Constitution proclaiming unity of political status between the colonies and the metropolitan provinces. It was, furthermore, in perfect keeping with the ideology of the New State to appeal to the tradions of Portugal's glorious past and to see in them justification for the mystique of a "geographically dispersed Portuguese community". The next few years saw the promulgation of legislation that today still determines, in its essentials, the political organization of the overseas territories. They were the work of Dr. Salazar himself, during his term of office as Colonial Minister, and of his successor to that post, Dr. Armindo Monteiro. The first law, called the Colonial Act, came in 1930. This was followed by another law entitled Organic Charter of the Empire. in 1933 what was in effect a kind of administrative code came into force under the title the Act of Overseas Administrative Reform. This same year saw the coming into force of the new Political Constitution of the Portuguese Republic, approved by national referendum on March 18. In its original version the 1933 Constitution consisted of seven Sections, the last of which con-

cerned the "Portuguese Colonial Empire" and comprised one sole Article which stated:

> Article 133.- The provisions of the Colonial Act are considered as constitutional matter; the said Act shall be republished by the Government with such changes as are made necessary by the present Constitution.

In application of this Article the Colonial Act was annexed to the Constitution and its provisions thus acquired constitutional authority.

The constitutional law of June 11, 1951 took up the essential provisions of the Colonial Act and incorporated them in Title VII of the Constitution, thereafter entitled "Of Overseas Portugal". Thus the basic rules regarding the status of the territories are now included in the body of the Constitution instead of merely being annexed to it. The arrangements regarding the political and administrative system have remained quite unchanged. There have merely been a few alterations in form and wording, the new text being appreciably smoother. What is most striking in this connection is the disappearance of the terms colonial Empire and colonies and their replacement by the term territories or overseas provinces. Dr. Adriano Moreira, the present Minister for Overseas Provinces, has openly admitted that this change of label was made for reasons of political expediency: Portugal had just applied for membership of the United Nations and, naturally, such words as "colonial Empire" and "colonies" gave a bad impression. Reference has also been made to a remark by a deputy in the National Assembly, Mr. Miguel Bastos; during the debate on the constitutional law he is reported as having said:[7]

> We have no colonies; together with the overseas provinces we form a single nation. Those are patent facts. Since we are concerned, as well we should be, with creating a realistic policy based on those facts and on the constant factors of history, why and in the

> name of what principle should we remain bound to a term that today has become equivocal and dangerous?

And in an interview given to the New York Times in May 1961 Dr. Salazar himself stated: "The adoption of the term colonies is sporadic in Portuguese tradition - a tradition to which we have reverted by redesignating our overseas territories as provinces."[8]

One may well, however, voice some doubt as to the constancy of that "tradition". Did not the constitutional reformer of 1951 simply salvage from the debris of the Liberal regime of 1832 - which otherwise has been so frequently decried and despised - a terminology that has long since been obsolete? As to the concept of the political unity of the Portuguese nation, whereby its constituent elements, though geographically dispersed, are juridically identical, we shall weigh its real worth in terms of positive law by examining the texts currently in force. It would seem, however, quite inadmissible to maintain that it has been the very soul of the country's colonial policy for centuries on end when, in fact, that policy was for the most part shifting and indeterminate until the coming of the Estado Novo.

§2. Political Unity under Current Positive Law

We must now proceed to ascertain how far the principle of the untiy of the Portuguese nation extends, and where its limits lie, by examining the provisions of the 1933 Constitution as revised in 1951.

I.- The Principle of Political Unity.

The principle itself is affirmed very strongly in several of the Constitution's provisions. The Constitution's opening

Section, headed "Of the Portuguese Nation", begins with a list of the Republic's territorial possessions:

> Article 1.- The territory of Portugal is that which at present belongs to it and comprises:
> I) in Europe: the mainland and the archipelagos of Madeira and the Azores;
> II) in West Africa: the Cape Verde archipelago, Guinea, S.Tomé and Principe and their dependencies, S. Joao Babtista de Ajuda, Cabinda and Angola;
> III) in East Africa: Mozambique;
> IV) in Asia: the State of India and Macao and their respective dependencies;
> V) in Oceania: Timor and its dependencies.

It should be pointed out that the territory of Cabinda is, administratively speaking, a district of Angola, and that in 1961 the Republic of Dahomey seized the tiny enclave of S. Joao Baptista de Ajuda (Quidah) of its own authority.

The Articles that follow confirm the unitary character of the Portuguese nation on the basis of the territorial possessions thus defined:

> Article 3.- The nation consists of all Portuguese citizens resident within or outside its territory...
>
> Article 4.- The Portuguese nation is an independent State. Its sovereignty recognizes in the internal sphere morality and law as the only limitations; in the international field it recognizes only those limitations which are derived from conventions or treaties freely entered into or from customary law freely accepted...
>
> Article 5.- The Portuguese State is a unitary and corporative republic founded upon the equality of all citizens in the eyes of the law, upon the free access

I.- The Constitution of 1933.

We have already quoted Article 5 of the Constitution according to which the Portuguese State is "a unitary corporative republic founded upon the equality of all its citizens in the eyes of the law", the only recognized limitation to that equality being such inequalities as are "imposed by diversity of circumstances or (arise) out of natural conditions". Furthermore, Article 7 states:

> The civil law defines how Portuguese citizenship is acquired and lost. A Portuguese citizen enjoys the rights and guarantees provided by the Constitution.

It is noticeable that the Constitution does not draw a very clear distinction between the idea of nationality and that of citizenship. It might be thought from Article 3, according to which "the nation consists of all Portuguese citizens...", that the two terms were synonymous. Whether such is the case or not, we notice that the acquisition of citizenship may be subject to certain conditions.

In Section VII of the second part of the Constitution, concerning the overseas provinces, there is no clear indication whether the natives of those provinces are Portuguese nationals, subjects or citizens. Moreover, in the same way as it provides for a special administrative statute for each of the provinces, the Constitution also provides for a special statute in respect of their inhabitants. The basic provisions are as follows.

> Article 138.- Regard shall be given in the overseas territories to the state of development of the native inhabitants. To this end and where necessary there shall be established, by special statutes, in the spirit of Portuguese public and private law, systems in keeping with native usage and customs, provided that these are not incompatible with morality, the dictates of humanity or the free exercise of Portu-

guese sovereignty.

Article 141.- The State guarantees, through special measures in the stage of transition, the protection and defence of the natives living in the provinces, in accordance with the principles of humanity and sovereignty, the provisions of this chapter and international conventions.

Article 142.- The State shall establish Portuguese institutions and encourage the establishment of private Portuguese institutions to uphold the rights of the natives and to give them assistance.

The Articles that follow concern the protection of the natives' property and conditions of work (Articles 143 to 147). There is nothing else in the Constitution to define the legal status of the native inhabitants of the overseas provinces. The essential thing, however, is that the provisions we have just quoted contain the principle of discrimination between indigenous and non-indigenous populations. To ascertain the practical effect of those provisions, we must now examine the texts governing their application.

II.- The Organic Law Relating to Portuguese Overseas Provinces (Act No.2066 of June 27, 1953).

Enacted after the revision of the Constitution in 1951, which reintroduced the term "overseas provinces", this law replaced the Organic Charter of the Empire, in force since 1930.[20] The basic principles regarding the status of the natives are set out in Chapter VIII, Section VI (entitled Native Peoples), Division LXXXIV, the text of which is as follows:

(I) The State guarantees by special measures, as a transitional system, the protection and defence of the Natives in the provinces of Angola, Mozambique and Guinea in conformity with the principles of

humanity and sovereignty, the provisions of this section and international conventions. The authorities and the courts shall prevent and punish, as prescribed by statute, all abuses against the person or property of Natives.

(II) The State shall establish official institutions and encourage the establishment of private institutions, which shall in any case be Portuguese, to protect the rights of the Natives and to provide assistance for them.

(III) Whenever necessary, and with due regard to the people's stage of development, special regulations shall be enacted in the overseas territories which shall lay down in accordance with Portuguese public and private law, rules adapted to their usage and customs, in so far as these are not incompatible with ethics, the dictates of humanity and the free exercise of Portuguese sovereignty.

It is noticeable at the outset that this text applies to three provinces only: Angola, Mozambique and Guinea. We have already seen that the matter in question does not arise in the case of three of the other provinces, namely India, Macao and the Cape Verde Islands, where the natives have long been assimilated to the metropolitan Portuguese. There remain Timor and the S. Tomé and Principe archipelagos. Some enlightenment as to the reason for their omission is afforded by the account given of the motives underlying the enactement of Legislative Decree No.43,893 of September 6, 1961 (which will be studied later): the intention was to imply abrogation of such discriminatory measures as may have existed in respect of the native populations of those two provinces, who have since become fully-assimilated Portuguese citizens. Thus, the only special statute that remains is in respect of the native peoples of the three provinces of continental Africa, which are, in any case, by far the largest; and for these discrimination retains its full force. The reasons given are high-sounding indeed: to protect and defend

the natives. The regime laid down by the 1952 Law is simply the re-expression of the discriminatory system last formulated in the Decrees of 1926 and 1929 concerning the status of the native populations of those same three provinces.

Two series of important legislative measures have been enacted in application of the Organic Law of 1953. First, the administrative statute of each of the provinces was defined by a series of legislative decrees enacted in July 1955; these will be examined in the next chapter. Secondly, the provisions contained in the Decrees of 1926 and 1929 regarding the status of the native populations of Guinea, Angola and Mozambique need renovating; they were consequently recast in the form of a new text, the Legislative Decree of May 20, 1954, which we shall now examine.

III.- The Status of Ingigenous Persons of Portuguese Nationality in the Provinces of Portuguese Guinea, Angola and Mozambique (Legislative Decree No.39,666 of May 20, 1954).[21]

It must be stated at the outset that this text was repealed by a legislative decree of September 6, 1961, which will be studied in the third paragraph of the present chapter. It is nonetheless of interest to examine the provisions it contains; firstly, because it confirms, in their essentials, those provisions that were previously in force, the system it describes being in fact that under which the three territories of continental Africa have been administered; and secondly, because considerable doubt may be entertained as to the practical effect of its abrogation.

A) Sphere of Application.

This is defined by Articles 1 and 2 of the Decree:

> Article 1.- In accordance with the Political Constitution, the organic law relating to the Portuguese overseas provinces and the present enactment, the indigenous inhabitants of the provinces of Portu-

guese Guinea, Angola and Mozambique shall enjoy a special status.

Article 2.- A person shall be considered to be an indigenous inhabitant of a province aforementioned if he is a member of the negro race or a descendant of a member of that race and was born, or habitually resides, in the province but does not as yet possess the level of education or the personal and social habits which are a condition for the unrestricted application of the public and private law pertaining to Portuguese citizens.

Race, level of education and way of life are thus the criteria governing the allotment of status. The population is divided into two classes: indigenous persons (indigenas) and non-indigenous persons (nao-indigenas). We shall see later the conditions under which a native may pass from the first to the second group and acquire, to use the Decree's own expression, citizenship (cidadania). It goes without saying that persons of European or Asian descent are automatically classified as fully belonging to the second group.

B) Effects of the Status.

These are defined principally by Articles 3 and 23 of the Decree:

Article 3.- Unless otherwise prescribed by law, indigenous persons shall be governed by the usage and customs pertaining to their respective societies.

Article 23.- Indigenous persons shall not be granted political rights with respect to non-indigenous institutions.

These Articles thus link status in Private Law with status in Public Law, civil rights with political rights. We have already pointed to the vagueness of the Constitution regarding the

concepts of citizenship and nationality. The official Portuguese viewpoint on this matter has been set out in the explanatory Government memorandum attached to the Decree of September 6, 1961. In the Portuguese legal tradition, we are told, there was

> no doubt as to the citizenship of all who came under Portuguese sovereignty, for citizenship meant nationality, and the latter had always been acquired by all according to the same rules (emphasis added).

However, the "rationalist nature of Public Law", it goes on, gave rise to another conception of citizenship; this differed substantially, for it implied "the capacity to have and exercise the political rights related to the new forms assumed by the organs of sovereignty". The legislator had to take this tendency into account and dissociate the two conceptions, making the acquisition of citizenship, in the restrictive sense, dependent on certain conditions while granting nationality to all those coming under Portuguese sovereignty. In fact:

> The predominance of a sense of mission, a feeling for essentials regardless of formulae, the imperative duty always complied with of not doing violence to populations led us to create a formal relationship between private law and political status and to make the latter dependent upon the kind of private law under which each Portuguese lived, without prejudice to the common nationality, attributed to all according to the same legal rules (emphases added).

For all that, as we shall see, the acquisition of citizenship is, though essential, not the only condition for the possession and exercise of political rights in the Portuguese provinces.

C) Conditions Governing Acquisition of Citizenship.

This matter is dealt with in Chapter III, Articles 56 to 64, of the Decree. The fundamental provision is as follows:

> Article 56.- A person may relinquish the status of indigenous person and acquire citizenship if he can prove that he satisfies all the following requirements:
> a) Is over eighteen years of age;
> b) Speaks the Portuguese language correctly;
> c) Is engaged in an occupation, trade or craft from which he derives sufficient income to support himself and the dependent members of his family, or else possesses adequate resources for that purpose;
> d) Is of good conduct and has attained the level of education and acquired the habits which are a condition for the unrestricted application of the public and private law pertaining to Portuguese citizens;
> e) Is not on record as having refused to perform military service or as having deserted.

The two paragraphs that follow state that the applicant shall furnish proof of his fitness for citizenship in the form of certificates issued by the local administration authorities having jurisdiction at his place of residence. Articles 58 and 59 lay down the procedure to be followed with a view to the acquisition of citizenship. The applicant submits his request, together with the relevant papers, to the administrator of the local municipality or district; they are then forwarded, with a justificatory note, to the Provincial or District Governor, who makes the final decision. In the event the request is rejected, the applicant may have recourse to a court of appeal. If the request is acceded to, the applicant receives an identity card (bilhete de identitade) attesting to his status as citizen.

However, anyone who has been granted citizenship may subsequently be deprived of it and downgraded once more to his original condition as native:

> Article 64.- Citizenship that has previously been granted or recognized may be withdrawn by decision of the local judge on the basis of justificatory evidence furnished by the competent administrative

authority and following the necessary steps taken by the public prosecuter.

The same Article goes on to state that the person concerned may have recourse to a court of appeal and that once the decision to revoke citizenship becomes final his identity card is withdrawn. He is then "again regarded as a native, except in respect of his fulfilment of any obligations he may have assumed vis-à-vis third persons". However, the Decree gives no indication of the grounds that would justify such a step, nor does it define the nature of the "justification" that the administrative authorities are called upon to provide. It must therefore be acknowledged that the administrative and judicial authorities wield absolute discretionary power in this matter.

With this reservation, the African native who acquires citizenship becomes justiciable to Portuguese law and the Portuguese courts; he is thenceforth subject to the provisions of the fiscal system and organization of labour pertaining to non-indigenous nationals; lastly, he enjoys political rights in the degree to which he meets certain conditions deriving, for the most part, from the laws pertaining to the electorate.

D) Assessement of the Status.

1. The entire system is undeniably based on discrimination between two classes of individuals: the indigenous and the non-indigenous. We shall subsequently see how this discrimination takes effect in public and private law. The argument so often made by the Portuguese in defence of this system is that the criterion governing the individual's status is not his colour or his race but his level of education and way of life.[22] This overlooks, however, the fact that a person of European stock is automatically classified as "non-indigenous", while a person of African stock who wishes to be so classified must first fulful the conditions prescribed by Article 56 of the Decree. Those conditions may, at first sight, seem petty enough, but as inter-

preted by the local administration authorities they in fact constitute a formidable obstacle. The condition regarding "education" is generally taken as entailing the ability to read and write Portuguese. If this same condition were made to apply to the Portuguese of European descent then - as is shown by Table I opposite (taken from official Portugguese sources) - 40% of them would fail to qualify as "non-indigenous persons"; for that is the extent of illiteracy in Metropolitan Portugal and it is certainly no less among the population of metropolitan origin inhabiting the overseas provinces. Moreover, while non-indigenous status is permanent and irrevocable for the European, for the African it is for ever precarious and may be withdrawn under conditions that leave a great deal to the arbitrary will of the administrative authorities.

2. Table II shows the relative strength of the two categories of population in the three African provinces; the figures are taken from the last census and the latest statistics published. One is immediately struck by the minute proportion of the native African population classified as "civilized"; less than 1% in Angola, just over one in every five hundred in Guinea, and less than one in a thousand in Mozambique. Where, in the light of these figures, lies the "assimilation" so often proclaimed as the traditional and overriding principle of Portuguese colonial policy? One Portuguese author, F.I. Pereira dos Santos, speaks discreetly of "moderated" assimilation and stresses that it is necessary to make allowance for the educational and cultural levels of the natives, their traditions and their customs.[23] Dr. Joachim da Silva Cunha, Professor at the Higher Institute of Overseas Studies in Lisbon, has expounded the concept of long term assimilation; depending on the circumstances, such assimilation is held up both as an age-old achievement and as a distant goal in the vague mists of the future. All are agreed in stressing the danger of overhasted development and the need to prepare the ground for any coming change, for account must be taken of the extremely low level of development still met with among the vast majority of the natives. This argument, however, conflicts with

No. I

Percentage of Illiterates among total Population over 7 Years of Age

(Metropolitan Portugal)

	1930	1940	1950
Mainland	61,5	48,8	40,3
Adjacent Islands	65,8	52,2	42,7
Total	61,8	49,0	40,4

Source: Anuário Estatistico - 1960 - p.17.

No. II

POPULATION OF GUINEA, ANGOLA AND MOZAMBIQUE

Division into Categories

	Guinea	Angola	Mozambique
Total Population	510,777	4,145,266	5,764,362
"Civilized" Population			
Whites	2,263	78,826	65,798
Mulattos	4,568	26,335	29,873
Indians	11		15,325
Other Asians		105	1,945
Negros	1,478	30,039	4,554
Total "civilized" Population	8,320	135,355	117,405
"Non-civilized" Population	502,457	4,009,911	5,646,957

Sources

For Guinea and Angola: Anuario Altramar, 1957, p.30-31 (figures based on 1950 census)

For Mozambique: Anuario Moçambique, 1959, p.30-31 (figures based on 1955 census)

the traditional claim to priority of occupation. If it is true that the Portuguese were the pioneers of colonization and set themselves up in Africa several centuries before any other European Power, how can they content themselves with such a state of affairs at a time when the English- and French-speaking populations of equatorial Africa have already shown their ability to assume political independence?

3. Yet another fact is that the argument based on the degree of development of the natives is far from conclusive. Antonio de Figueiredo has stated that during the 1950 census in Mozambique 164,580 Africans were found to speak Portuguese correctly and, of these 56,270 could read and write. Yet at that time only 4,349 Africans were classified as "civilized". By the 1955 census their number had risen to 4,554: an increase of only 205! The Portuguese have often maintained that the natives had little interest in changing their situation (by virtue of which they were exempt from certain taxes and subject to customary law), were content with their position as protégés and saw little point in becoming citizens. Dr. Salazar inferred that much in an interview published in the New York Times on May 31, 1961. Figueiredo points to a much more plausible reason for this abstention on the part of the Africans. In 1950 there were 56,270 Africans in Mozambique eligible to acquire citizenship; the white population, however, numbered only 48,213, not all of whom were eligible to vote. Faced with the danger that the Africans might one day form the majority of the electorate, the administrative authorities have certainly done nothing to encourage applications for citizenship and have shown little eagerness to accede to such requests as have been made.[24]

In conclusion, mention must be made of a point of terminology. As will have been noticed, Portuguese statistics divide the population of the provinces into "civilized" and "non-civilized" persons. Certain authors, however, have observed a tendency on the part of laymen and even the administrative authorities themselves to invent an intermediate category of "civilized non-

Europeans", denoted by the term assimilados. The Government has denied that there is any racial implication in this expression and has reprehended its officals for having adopted a terminology that it was their duty to suppress; and during his term as Colonial Minister, Mr. Marcello Caetano had occasion to point out that in the eyes of the law there were only two categories of persons: the indigenous and the non-indigenous.[25]

§3. Legislative Decree No.43,893 of September 6, 1961

During an interview published by the New York Times on May 31, 1961, Dr. Salazar remarked: "A law recognizing citizenship takes minutes to draft and can be made right away; a citizen, that is, a man fully and consciously integrated into a civilized political society, takes centuries to achieve." The Prime Minister doubtless thought that this centuries-long process had at last reached fruition, for on September 6, 1961 the Diario do Governo published Legislative Decree No.43,893, which ran as follows:

> Sole Article: Legislative Decree No.39,666 of May 20, 1954 is hereby revoked.

The law revoked was the Decree regarding "The Status of Indigenous Persons of Portuguese Nationality in the Provinces of Portuguese Guinea, Angola, and Mozambique" which we have just examined. The reasons given for enacting the new law - which certainly took no more than a minute to draft - are, to say the least, obscure. This will be seen from the following passage of the explanatory government memorandum where, in fact, the subject of the decree is dealt with more directly than anywhere else:

> We believe, indeed, that the political and social condition of our provinces on the African continent permit eliminating many of the laws which left the protection of local populations entirely in the hands of the State. We think it would be useful to give these populations wider possibilites of looking after their interests and participating in the administration of local affairs. In this last respect the steps now taken are part of a series of measures already initiated ...whose aim it is to implement the constitutional precepts guaranteeing intervention of all the structural elements of the nation in administrative procedure and law-making. Etc.

If the aim was to abolish indigenous status and to grant the natives full citizenship, then why not say in the explanatory memorandum, or even in the decree itself, clearly and straightforwardly: "Indigenous status is hereby abolished and full citizenship granted to all natives"?

Decree No.43,893 is one of a series of seven decrees relating to the overseas provinces that were all published in the same issue of the Diario do Governo of September 6, 1961. Some of these decrees will be examined in the two chapters that follow. Fortunately, in an important speech made at Oporto on August 28, 1961 Dr. Adriano Moreira, the Minister for Overseas Provinces, had already defined the coming change of trend in Portuguese colonial policy and provided valuable information regarding the significance of the texts that were later enacted. With reference to the status of natives, he expressed the following:[26]

> Inasmuch as the main reason for the statute is to be found in the respect for the way of life of the various races, we concluded that it was now timely to repeal it, so as to be clearly understood that the Portuguese people are subject to a political law which is the same for everyone, without distinction

> of race, religion or culture. We shall enforce in every part of the national territory the rule which has prevailed for so many centuries in the Portuguese State of India; there is no connection whatever between status in private law and political status... The political status...recognizes no differences between Portuguese...In keeping with the rule that power must always be exercised by those who are most fit to do so, the law will define, for all, the conditions in which they may intervene actively in political life (emphases added).

If such is the true meaning of Decree No.43,893, then it undoubtedly marks a major turning point in Portuguese colonial policy, at least in the sphere of precepts. This switch of policy came unexpectedly. But a short time ago Dr. da Silva Cunha was still referring to the official doctrine of step-by-step assimilation, whereby equality of status "should not be given to the natives automatically and indiscriminately"; it was only when they had raised themselves up to the level of Portuguese culture and civilization that they could "receive Portuguese citizenship by which they would have full rights and obligations as provided for by the Constitution".[27] However, on September 6, 1961, eleven million Portuguese subjects became citizens, in the same way as in 212, the year of Caracalla's Imperial Edict, all free subjects of the Empire became Romans. There has been a sudden transition-less switch from assimilation in mind and sentiment to integration in law. Political expediency no doubt lies behind this abrupt change; it came at the very time when two international commissions, one appointed by the United Nations and the other by the I.L.O., were beginning their respective enquiries into the situation existing in the African provinces and but a short period before the opening of the XVIth session of the General Assembly, where Portugal's colonial policy is bound to be the subject of bitter debate. Speaking before the I.L.O. commission, Professor R. Ventura, Counsel of the Portuguese Government, explained in the following terms the reform that had

been encated a few days previously:[28]

> When it considered that the time had come when the average population had reached such a degree of development that one could say that there was no longer any distinction between the civilized and the non-civilized, between the indigenous and the non-indigenous, the Portuguese Government - after some four or five years of study - published a legislative decree repealing the indigenous status. As regards political or public rights, there is no longer any distinction among those possessing Portuguese nationality (emphases added).

Though, as we have said, the abolition of indigenous status is, in principle, a measure of undoubted significance, its practical importance may well be questioned. First, as has been stressed, there is the vagueness of the decree itself and of the Government memorandum: it seems as if the legislator were afraid of committing himself by expressing things too explicitly. Secondly, the Decree of May 20, 1954 formed only part of a whole body of legislation: no changes have been made in the parent legislation to which the legislative decree was in fact subordinate, namely the Constitution, with its - as we have seen - discriminatory provisions, and the Organic Law of June 27, 1953 concerning the special status of the natives inhabiting the three provinces in question. Other legislation, such as the Labour Code of 1928 applying specifically to natives of indigenous status (and which will be dealt with in a later chapter), are to remain in force until further notice. Indeed the whole administrative organization of the provinces, the legal system, the penal institutions and the very fabric of Private Law - all hinge on the existence of a special status for the native inhabitants and cannot be transformed or even adapted by a mere stroke of the pen. Professor Ventura himself acknowledged before the I.L.O. Commission that to remove all discriminatory provisions from the texts in force would involve a veritable mountain of legislative work; he announced, by way of

concrete example, that the Labour Code of 1928 was soon to be remodelled.[29] It is true that a number of the decrees enacted on September 6, 1961 helped fill part of the gap created by the repeal of the 1954 Decree. However, the work of adapting the rest of the legislation does not seem to be progressing at any great pace, and the new Labour Code, which was announced as coming into force at the beginning of 1962, is still unpublished. Last but not least; Mr. Adriano Moreira's statement that the law "will define, for all, the conditions in which they may intervene actively in political life" is an apt reminder that in Portugal citizenship does not necessarily imply the exercise of political rights; far from it. When, in the next two chapters, we come to look at the political, administrative and judicial institutions, civil rights and public freedoms, we shall have clearer understanding as to the meaning of that citizenship which the natives have latterly been granted. For the moment we must acknowledge that the reform promulgated on September 6, 1961 caps and completes the integration of the natives in terms of law, but we reserve our opinion as to its effect in terms of concrete facts.

NOTES

1 Portugal IR, No.1 (1961), pp. 23 and 26.
2 Egerton, pp. 13, 21 and 25.
3 Portugal IR, No.2 (1961), p.103.
4 Bohm, p.32.
5 Duffy, p.94.
6 Duffy, p.102.
7 Quoted by C.Mahala in P.A., February-March 1960, p.31.
8 New York Times, May 31, 1961.
9 Egerton, p.247.
10 Addicott, pp.84-88.
11 Vasco N.P. Fortuna, Article in Civilisations, vol.VI (1956), p.437.
12 Figueiredo, p.121.
13 Antonio A. de Andrade, Many Races - One Nation, Lisbon 1961,p.6; Luis C.Lupi, Portugal and her Overseas Provinces, Lisbon 1961,p20.
14 Andrade, p.8; Lupi, p.22.
15 These texts are reproduced in Andrade's book, pp. 25,31 and 37.
16 Andrade, p.18.
17 The Native Policy of the Portuguese in Guinea and Angola; 15th to 17th Century in Portugal IR, No.5 (1961), pp. 306 and 311.
18 Egerton, p.251.
19 On this whole question see Duffy, pp. 236, 242-4 and 254.
20 The English translation of extracts from this law will be found in Y.H.R. 1953, p.327 et seq.
21 The English translation of extracts from this legislative decree will be found in Y.H.R. 1954, p.236 et seq.
22 Egerton writes to similar effect, p.26.
23 F.I. Pereira dos Santos, Un Etat corporatif; la Constitution sociale et politique portugaise, Paris (Sirey) 1935, p.236.
24 Figueiredo, pp.113-4.
25 Egerton, p.252; Mondlane, p.235.
26 The text of this speech is reproduced in Portugal IR, No.5 (1961), p.281 et seq.

27 Anuario Guiné 1950-51, pp.97 and 105.

28 Anuario Angola 1959, pp.82-84.

29 Anuario Moçambique 1958, pp.245 and 272-3.

30 Portugal IR, No.5 (1961), p.291.

CHAPTER II

THE POLITICAL AND ADMINISTRATIVE INSTITUTIONS

The political and administrative institutions of the overseas provinces form part of the constitutional framework of the Portuguese State. It is not within the scope of this study to examine the political system that has functioned in Portugal since the coup d'état of May 28, 1926, when Marshal Carmona came to power. The regime ushered in by the "National Revolution" and the Constitution of 1933 - by virtue of which Dr. Salazar has been head of the Government for thirty years - defies classification by usual standards of political science. For lack of a better term, it may be rated as authoritarian. The President of the Republic is the titular head of the Executive; following the amendment of the Constitution in 1959, he is no longer elected by the people but by a limited electoral college. Legislative power is, in theory, in the hands of the National Assembly; this is made up of 130 members elected by suffrage that is far from universal. The Chairman (i.e., Prime Minister) and members of the Council of Ministers are appointed by the President of the Republic and are responsible to him alone; they are not responsible before the National Assembly, which, moreover, may be dissolved by the Head of State. In fact, the National Assembly sits for only three months of the year and wields extremely limited powers even in legislative matters: according to Article 92 of the Constitution, the laws it votes on "must be confined to the examination of the general legal principles of the enactments". It is the Government, consisting of the Premier and his Ministers, that carries out the bulk of the legislative work by enacting decrees and legislative decrees. Furthermore, the President of the Republic delegates his principal powers to the Government. It must be added that the Government and the National

Assembly are assisted in the drafting of texts by yet another body, the Corporative Chamber, whose functions, however, are purely advisory. In the last analysis, therefore, the Government, or more precisely the Prime Minister, holds the essential executive and legislative powers and has full authority to shape and direct, down to its very details, the nation's internal and external policy. And since 1932 these responsibilites have lain on the shoulders of Dr. Oliveira Salazar.[1]

As has already been seen, the Legislative Decree of September 6, 1961 has meant that the native inhabitants of the overseas provinces now enjoy political rights equal to those of the Metropolitan Portuguese. Prior to any examination of the institutions themselves, an attempt will be made to ascertain the extent to which such rights enable the natives to - in Dr. Adriano Moreira's own words - "intervene actively in political life".

Part I

THE POLITICAL RIGHTS OF THE NATIVE

Article 23 of the Legislative Decree of May 20, 1954, stating that "indigenous persons shall not be granted political rights with respect to non-indigenous institutions", now belongs to the past. Africans and Europeans - at least in theory - will henceforth take part on an equal footing in the election to form the National and local Assemblies. What are the conditions governing their participation in those elections?

According to Article 85 of the Constitution the members shall be elected "by the direct vote of the citizen electors" - which implies that some citizens are not electors. It has already been noted that the concept of citizenship is

kept distinct from that of nationality. It will be seen from the following, however, that even citizenship does not necessarily mean the enjoyment of political rights, at least not in electoral matters.

The conditions governing the right to vote and eligibility for election to the National Assembly - and likewise to the local Assemblies - have been defined in two legislative decrees enacted in 1945.[2] As laid down by Legislative Decree No.35,426 of December 31, 1945, and apart from a universal condition in respect of being legally of age, the conditions governing the right to vote vary according to sex. Men must either be able to read and write in Portuguese or pay a tax of at least one hundred escudos. Women must also provide evidence that they have attained to a certain level of secondary or technical education. No electoral rights are attributed to persons having been convicted of certain offences or to those "professing opinions which are contrary to social discipline and the existence of Portugal as an independent State". Under the terms of Legislative Decree No.34,938 of September 22, 1945, the conditons governing eligibility are as follows. In general, persons entitled to vote are likewise eligbile, provided that they can read and write and are not suffering from certain physical disabilities. The reasons for which a person may be excluded from voting apply, a fortiori, to rules for eligibility. Also ineligible are persons having acquired Portuguese nationality through naturalization and those having lived abroad over the previous five years. In view of the low level of school attendance, these conditions have made electoral rights the privilege of a minority: the electoral registers for the last elections comprised approximately 15% of the population. In the African provinces the number of electors registered during the last census is seen to be ludicrously small when compared with the overall population: 2,164 in Guinea (population: 510,777) and 30,594 in Mozambique (population: 6,592,994), 9,732 of whom were registered in the single district of Lourenço Marqués.[3] In each of these territories the electorate accounts for roughly one quarter of the "civilized" inhabitants.

Until recently only Africans classed as "non-indigenous" could apply for enrolment on the electoral register - provided, of course, that they met the requirements laid down in the aforementioned texts. Today, the gate to citizenship stands wide open, but the conditions governing eligibility and the right to vote remain what they were. From the practical standpoint it is doubtful whether the Decree of September 6, 1961 has brought about any tangible change in the native's political status.

1. The illiteracy rate is as much as 97% in Angola, 97.8% in Mozambique and 98.9% in Guinea; moreover, these figures relate to the overall population, embracing both "civilized" and "non-civilized".[4] Very few, therefore, of the Africans who, yesterday, were classified as "indigenous" will be able to meet the stipulated educational requirements. As will be seen, it is true that the majority pay into the Treasury a good deal more than one hundred escudos, levied in the form of a special annual tax, called "personal tax" and applying only to natives. However, according to Article 1 of the Legislative Decree of December 31, 1945, it is not enough simply to pay one hundred escudos in order to vote: the money must be in payment of certain specific taxes, of which a list is given (property tax, professional tax, etc.); and the "personal" tax does not appear in that list.

2. In the overseas provinces, as indeed in Metropolitan Portugal, both the drawing up of the electoral registers and the authorizing of candidatures are left to the discretion of the administrative authorities. Prior to the elections of November 1961, the seven candidates put up by the opposition in Mozambique were all struck off the list by the Governor-General on the grounds that they did not have the necessary qualifications. It would be an equally simple matter for an administrator or chefe de posto to reject an application for inclusion on the electoral register on the grounds that the applicant held "opinions which are contrary to social discipline".

3. At the time of the last elections two months had already elapsed since the abolition of indigenous status. The new "citizens" do not appear, however, to have swamped the polling stations. It will no doubt be said that the administration had not had sufficient time to compile the new electoral registers. The task was not, however, beyond the bounds of human capability; nonetheless, everything passed off as if nothing had changed. The administrative authorities have four years ahead of them before the next elections for the National Assembly: it is to be hoped that they will make use of that time to bring the registers into keeping with the new political situation in which the natives now find themselves.

The representation of Metropolitan Portugal and the overseas provinces in the National Assembly remains what it was - utterly disproportionate. As already stated, the metropolitan territory is represented by 107 members while Angola and Mozambique, with a much higher population, have a right to only 14 seats between them. Moreover, the candidates to fill those 14 seats may have no real connection with the country; they are often no more than retired higher officials, bankers or company directors who get themselves elected in the overseas territories. The representativeness of such members is, obviously, more than doubtful.[5]

5. Lastly, the elections in the overseas provinces have to be viewed from the perspective of popular participation in Government in Metropolitan Portugal where no genuine contest among candidates of various parties can take place. The electoral process is for all practical purposes limited to the approval of candidates put up by the "National Union", i.e., the Government. Since the Constitution first came into force, no opposition candidate has ever won a seat in the National Assembly; and only once, in 1953, has the opposition succeeded in keeping its candidates in the running right up to polling day.[6] In the "appeal to the nation" which he broadcasted on November 9, 1961, on the eve of the last elections, Dr. Salazar stated:[7]

> Observers unfamiliar with the working of Portuguese institutions since the beginning of the 19th century, comprising liberal monarchy and democratic republic, may have missed one constant feature of our political history. I cannot recall any case of a rise to power as the result of an election victory and I believe that none does in fact exist. In Portugal the confirmation by vote comes after the call to hold the highest authority of the Nation (emphasis added).

This amounts to saying that the citizen's political rights only enable him to express approval of the choices already made and the decisions already taken by the Head of State.

Part II

THE ADMINISTRATIVE SYSTEM

According to Article 148 of the Constitution the politcal unity of the Portuguese nation is balanced by the administrative and financial decentralization of the overseas provinces. Under Article 149 provision is similarly made for the sharing of legislative powers:

> Article 149.- The overseas provinces shall, as a rule, be governed by special legislation passed by the legislative bodies of Metropolitan Portugal or, according to circumstances in each province, by the provincial legislative bodies.

The powers are thus divided between a) the central metropolitan authorities, operating through a directly subordinate administrative network, and b) the local decentralized authorities. The administration of the native communities will be considered separately.

§1. The Organs of Central Power

The distribution of authority among the various organs of central power is marked by the overriding preponderance of the Executive, which is indeed one of the basic principles of the Estado Novo. Supreme authority lies with the constitutional organs of the Portuguese Republic; it is implemented at provincial level through a highly-remified administrative network. These two aspects will be examined in turn.

I.- The Constitutional Organs of the Portuguese Republic.

A) The National Assembly.

According to Article 150 of the Constitution, the National Assembly has the right to legislate for the overseas provinces in matters of national defence, currency and justice - which Article 93 stipulates as lying within its competence - and also in the following:

a) the general system of government of the overseas provinces;
b) the definition of the powers of the Metropolitan Government and the local governments in matters relating to territorial concessions; and
c) authorization for contracts requiring special security or guarantees.

It will be recalled that according to Article 92 of the Constitution the laws passed by the Assembly shall do no more than lay down "the general legal principles of the enactments"; they are skeleton laws, and it is for the Government to work out the method and details of their implementation. Consequently, in this field as in others, the Assembly's legislative power is confined within narrow bounds. Moreover, as already seen, the general representativeness of the National Assembly is highly

questionable and in the particular case of the representation of the natives in the African provinces, altogether fictitious.

B) The Government.

Under the Portuguese constitutional system it is the Government, defined by Article 107 of the Constitution as comprising the Chairman and members of the Council of Ministers, that is the real maker of public law. Article 109 states that the Government shall legislate through the medium of legilsative decrees based on the "principles" adopted by the National Assembly. According to Article 150 this legislative power extends to matters relating to the overseas provinces.

> ...when, under the terms of the Constitution, it has, by decree-law, to take action affecting the whole national territory; or when an executive measure provides for questions of common concern to both Metropolitan Portugal and one or more of the overseas provinces.

Outside the purely legislative sphere, it is again the Government that appoints the Governors of the overseas provinces (Article 109, §5). Furthermore, as will be seen, the Government exercises a telling influence on the economic life of the overseas provinces through the medium of various bodies controlling external trade and the production of certain foodstuffs and primary products.

C) The Minister for Overseas Provinces.

The bulk of the legislative and administrative powers in respect of the overseas provinces is concentrated in the hands of the Minister. He is assisted by three advisory bodies. Of these, the Overseas Economic Conference and the Governors' Conference are not permanent and are only convened on the Minister's own initiative. The third body, the Council for the Overseas,

is a permanent institution. It consists of members appointed by the Minister, a number of co-opted members, the provincial Governors present in Lisbon and, on occasions, certain officials or one-time officials who are invited to sit in as experts. Though its creation dates back to a royal Ordinance enacted by John IV in 1643, this venerable institution exercises advisory powers only and, as in the case of the two conferences already mentioned, its opinions and recommendations are in no way binding on the Minister.

Article 150 of the Constitution lists the Minister as being - after the National Assembly and the Government - the third "body in Metropolitan Portugal (having) the right to legislate for Overseas Portugal". It states that his authority

> ...covers all matters involving the higher or general interests of national policy in Overseas Portugal or which are common to more than one overseas province.

§1 of the same Article stipulates that the Minister shall only exercise his legislative power after consultation with the Council for the Overseas. His enactments take the form of pure and simple decrees, the power to enact legislative decrees being, as already mentioned, the prerogative of the Government. §2 states that before they can come into force all enactments - which doubtless includes the laws passed by the National Assembly and the Government's own legislative decrees - must be published in the Official Bulletin of the territory in question by order of the Minister; this amounts to giving the Minister discretionary power regarding the promulgation of each individual text in each individual province.

Chapters X and XI of the Organic Law of June 27, 1953, relating to the overseas provinces, define the Minister's powers in matters of legislation and administration. The Minister is empowered to legislate in matters relating to the provinces' political and administrative status and their finances, and the establishment and functioning of corporative bodies having compe-

tence in educational and economic affairs. He arbitrates all disputes between the Governors and the Legislative Councils of the territories. He appoints and dismisses the officials staffing the various branches of the overseas civil service. Loans, land concessions and large public works contracts require his prior consent.

Appointed by the Prime Minister and responsible to him alone, free of any dependence on the elected Assembly and of all contact with the representatives of public opinion - in brief, the Minister for Overseas Portugal enjoys well-nigh absolute power in the conduct of colonial affairs and the shaping of colonial policy.

II.- The Administration of the Overseas Provinces.

The power of the central authorities is diffused and implemented in the provinces through a broad administrative network which is directly subordinate to the Minister for Overseas Portugal.

The initial plan for a colonial administration system has been attributed to Sa da Bandeira, Prime Minister from 1836 to 1840. As already remarked, at that time the occupation of the territories on the African mainland did not extend beyond a few coastal localities; there had been very little penetration into the interior and the authority of the tribal chieftains had remained practically intact. Following the Berlin Conference the situation changed, for Portugal now found herself obliged to undertake the more effective occupation of her titular possessions. The Government therefore had to give more robust and solid form to its administration system; in so doing, it had to deprive the more important of the local chieftains of their powers and replace them with men of lesser stamp who would be fully subordinate to the central authorities.[8] In the paper on Civil Administration in the Overseas Provinces which he submitted to the Colonial Congress of 1901, Eduardo Costa formulated a comprehensive system,

the keystone of which was to be the subdivisional administrator wielding political, military, administrative and judicial powers. Most of the ideas he put forward were later to become reality; indeed, it has since been said that the administrator - that white chief-of-chiefs transcending the native headsmen, half pater familias and half prazero, and wielding absolute yet benign authority - was something characteristically Portuguese.[9] To install the administrative machinery proved no easy matter. In Angola seven Governors came and went between 1890 and 1900. It was difficult to recruit administrators: these were made up, for the most part, of former Non-Commissioned Officers who were ill-prepared for the new responsibilities and badly paid into the bargain; since they formed the physical point of contact between the natives and the administrative authority, their blunders were the cause of continual rebellion.[10] The situation seems to have improved substantially and become a good deal more stable during the last years of the monarchy, but the latter's collapse in 1910 gave rise to a new crisis.[11] However, the Estado Novo has since placed the administration of the territories on a firm foundation. It is that foundation, as it exists today, that is examined in the pages that follow. It must be mentioned in passing that over and above the administrative machinery proper a corps of inspectors likewise functions under the direct and exclusive control of the Minister for Overseas Portugal: these missi dominici have no administrative duties; they carry out periodic all-level checks of the local administration and report to the Minister.

The direct representative of the Portuguese Government responsible for each territory as a whole is, in Angola and Mozambique, the Governor-General and, elsewhere, the Governor. The Governors and Governors-General are appointed by the Council of Ministers - generally on the recommendation of the Minister for Overseas Portugal - for a period of four years. According to Article 157 of the Constitution,

> It is the supreme duty and honour of the Governor, in each of the overseas provinces, to uphold the sovereign rights of the Nation and to promote the welfare of the province, in accordance with the principles enshrined in the Constitution and in the laws.

The functions of the Governor-General or Governor as an organ of the decentralized administration of the province will be examined in §2 of this chapter. For the moment we shall view him simply in his capacity as a representative of the central authorities. As such, he ensures that the general and local laws and the instructions emanating from the Minister for Overseas Portugal are duly implemented; he presides over the various branches of the administration and public services installed in the province; he keeps the Minister informed on all matters relating to the administration of the province. Under the terms of Article 154 of the Constitution he is the "supreme authority" in the territory and is entrusted with powers comparable to those enjoyed by the Minister responsible for the overseas territories as a whole, being "the local representative of Portuguese sovereignty and civil and military head, in the legislative, administrative and financial spheres, of all departments and services existing in the colony." [12]

Before the revision of the Constitution in 1951, the "Colonies" of Angola and Mozambique were divided into Provinces, there being five in Angola (Luanda, Malange, Benguela, Bie and Huila) and four in Mozambique (Niassa, Zambezia, Manica-and-Sofala and Sul do Save). Now that the "Colonies" have themselves become "Provinces" there is no longer any intermediate division between the territory as a whole and the district area (intendência). Angola consists of thirteen Districts (of which the Cabinda enclave is one) and Mozambique of nine. The official placed in charge of each District has the title of "Governor".

The system of sub-divisionswithin each District varies and depends on whether the non-indigenous population is preponderant

or not. Those sub-divisions having a high percentage of "civilized" inhabtiants, i.e., the urban areas more than any other, are known as "councils" (concelhos), as in Metropolitan Portugal, and enjoy a certain measure of administrative autonomy; they are themselves divided into "parishes" (freguesias). The sub-divisions with a predominantly native population are called "circumscriptions" (circunscriçoes) and come under the authority of an administrator; these are divided into anything between two and six "administrative posts" (postos), each run by a chefe de posto. It may be mentioned as a matter of interest that Angola comprises roughly seventy-five circumscriptions and some 250 postos.

The system found in Guinea is peculiar to that territory: the province is divided not into Districts but into "Administrative Divisions", numbering twelve in all; these are further divided into "administrative posts", of which there are thirty-three.

The chefe de posto and the administrator in charge of the circumscription thus form the mainspring of the administrative machinery in the Pronvince; this is particularly true of the first, who is in constant face-to-face contact with the natives and is, at one and the same time, "registrar, tax collector, magistrate in disputes between Africans, promoter of native economy and agriculture and very often responsible for the recruitment of labour".[13] In short, the whole administration of a province is, in many respects worth no more than its chefes de posto; and, as will be seen later, no matter how rigorously authority may be centralized, these often only dimly enlightened despots are still able to exploit their authority to circumvent certain provisions contained in law and even in the Constitution itself and which are designed to protect the native's person and property. This is what the United Nations Sub-Committee had to say on the subject.[14]

> The development of practicesunder which it has been said the administrator of administrative areas

> (circunscriçoes) and the chiefs of sub-areas (chefes de posto) have come to represent the sovereignty of the Portuguese nation, the authority of the Republic and, in general, Portuguese civilization has been one of the most important factors in the background of the situation in Angola. As they have had considerable power over the welfare of the indigenous inhabitants, including the exercise of judicial functions, their role in the carrying out of governmental action has been pervasive and decisive within a framework of wide administrative discretion (emphases added).

Viewed as a whole, Portuguese colonial administration may be said to be characterized by two essential features. First, at all levels power is wielded from above, the central powers virtually concentrated in the hands of the Minister for Overseas Provinces, who is responsible to no-one but the Prime Minister. Secondly, the Minister controls a formidable administrative organization whose tentacles stretch as far as the individual native cumminities; by means of this network orders are passed on and their execution supervised right down to the level of the individual, allowance being made, of course, for the inevitable freedom of action exercised by the administrators and chefes de posto. With its 250-odd postos Angola has a much higher "administrative density" than was ever attained in any of the French or British African colonies.[15] Thus the native population must submit to the decisions taken, whether in Lisbon or by the subordinate authorites, without having any say, either direct or indirect, in their formulation.

§2. The Organs of local Administration in the Overseas Provinces

As has already been seen, the Overseas Provinces are not exclusively governed by the general administrative machinery of the Portuguese Republic; they also enjoy certain powers of autonomy. Reference has been made to Articles 148 and 149 of the Constitution by which the Overseas Provinces are guaranteed a measure of legislative, administrative and financial decentralization. The extent and exercise of the legislative power attributed to the provinces are defined in Articles 151 and 152:

> Artcile 151.- All matters of exclusive concern to an Overseas Province and outside the scope...of the National Assembly, the Government or the Minister for Overseas Portugal shall be dealt with by the legislative bodies of the Overseas Provinces prescribed by law...
>
> Article 152.- The legislative functions of each of the Governments of the Overseas Provinces, within their jurisdiction, shall be exercised under the supervision of the bodies in which sovereignty resides and shall be, as a rule, in accordance with the vote of a council in which representation is suited to local social conditions.

"Government Councils" had been inaugurated in 1926 by the various Governor and Governors-General. They were composed of a limited number of high officials and public figures appointed by the Governor himself and were purely advisory bodies. Leaving aside the ups and downs of their subsequent history, we shall pass on to examine the system existing at present. The two Articles of the Constitution quoted above speak of "the legislative bodies" of the provinces and of "the vote of a council". These references have been defined more closely by the Organic Law of June 27, 1953, which was enacted in application of Article

150 (Para.1 (a)) of the Constitution to define "the general system of government of the Overseas Provinces". Divisions V and XCII of the Organic Law provide that the political and administrative status of each Province shall be defined by decrees, Divisions XXV and XXVI affirm the principle of establishing, at least in the larger Provinces, a Government Council and a Legislative Council. In execution of the Organic Law the status of the Province known as "the State of India" was defined by a decree enacted on July 1, 1955, this was followed on July 5, 1955 by a series of decrees defining the statutes of the other Provinces.[16] The decrees of July 5, 1955 all follow the same pattern. They consist of two chapters, the first devoted to the organs of central authority and the second to the organs of legal authority in the Province in question. The latter organs comprise an Executive and two deliberate bodies. The analysis that follows is confined to the institution existing in the three Provinces of mainland Africa: Guinea, Angola and Mozambique.

A) The Executive.

In the administration of the Province the supreme executive powers lie with the Governor in Guinea and with the Governor-General in Angola and Mozambique. These powers are held in conjunction with those devolving upon the Governor in his capacity as the representative of the central authorities; this is in keeping with the practices of "duality of office" common in matters of Public Law. Article 12 of each of the three decrees lists in like terms the responsibilities of the provincial Executive. It is, for example, incumbent upon the Governor to

> ...promote the improvement of the moral and material living conditions of the indigenous inhabitants, the development of their natural skills and abilities, and, in general, their education, instruction, security and advancement
>
> ...direct and supervise the application of the policy concerning the indigenous inhabitants and, specifically, ensure compliance with the laws and regulations pro-

viding for personal protection, freedom of work and protection of property (both individual and collective) and of the indigenous usages and customs that should be respected.

These provisions relate specifically to the "indigenous inhabitants" and are not found in the decrees concerning those provinces whose native population had been assimilated en bloc to the Metropolitan Portuguese. It is only logical that they should be removed from the decrees relating to the status of Guinea, Angola and Mozambique, if it is true that by virtue of the Decree of September 6, 1961 indigenous status no longer exists there.

B) The Consultative Bodies.

1. Guinea.

In Guinea, as in fact in the small territories of Macao, Timor and the S. Tomé and Principe Islands, provision is made for only one deliberative body, the Government Council. Article 17 of the decree relating to Guinea states that it shall consist of ten members: three officials, who are members ex officio; three elected by the electorate; one member elected by taxpayers paying over 1,000 escudos; and three members appointed by the Governor (including one "to represent the indigenous population"). The Government Councils of the other Provinces are almost identical in composition, except that there is no "representative of the indigenous population" - which, since those Provinces have no indigenous population, is logical enough. There is little to say regarding the powers invested in these Councils apart from the fact that they are strictly advisory.

2. Angola and Mozambique.

These have two consultive bodies: the "Government Council" is balanced by a "Legislative Council".

In both provinces the Government Council consists of eight members: six high-ranking officials and two members of the Legislative Council delegated by the Governor-General. They are thus devoid of any elective character.

The Legislative Council is made up as follows: in Angola there are twenty-six members of whom eighteen are elected and eight appointed; in Mozambique there are twenty-four members, of whom sixteen are elected and eight appointed. Of the elected members, slighlty more than half are nominated by the electorate, the others being appointed by various corporative and municipal organizations. It should be pointed out that while one member is elected "by individuals of Portuguese nationality recorded as having paid not less than 10,000 escudos annually in direct taxes", nobody at all is elected by the 9 1/2 million natives whose names are not on the electoral registers. As regards the appointed members, of whom there are eight in each Province, six of them (including three from the higher ranks of officialdom) are nominated by the Governor-General; the other two are appointed by the Government Council - on the recommendation of the Governor-General - "to represent the indigenous population". The Legislative Council convenes twice yearly for a session of one month. It is empowered to draft legislation on matters of exclusive concern to the Province as provided for by Articles 149 and 151 of the Constitution. Laws passed by the Council must be promulgated by the Governor-General, who has right of veto. In the event of any dispute between the Legislative Council and the Governor-General the final decision lies with the Minister for Overseas Provinces.

This faint-hearted system of internal self-government - which is what the administration of the Overseas Provinces amounts to - bears the imprint of the several principles that underlie the corporative State: the preponderance of an Executive that is itself subordinate to the central authority; restrictive suffrage counterbalancing theoretically universal suffrage; the representation of intermediate bodies beside that of the individual person (which leads to the altogether peculiar situation in which the

Legislative Council is itself represented on the Government Council and vice versa). The most salient feature, however, is the complete absence - at least until now - of any elected representatives to speak for the native inhabitants of the three Provinces of the African continent. In all three Provinces the large tax-payer is more handsomely represented than the native. The large tax-payer is privileged with a special electoral right over and above the normal vote to which he is entitled by virtue of being on the electoral register. The non-voting natives, that is to say the vast majority, are symbolically represented by two trustees chosen by the higher authorities and have no say whatsoever in their appointment. In practice, these trustees are often members of the African clergy, and all that is asked of them is to say Amen to the decisions taken by the rest of the Council. Indeed, whatever the spirit in which these "representatives of the indigenous population" might attempt to fulfil their duties, they would in any case be completely overriden by reason of the sheer numerial superiority of the European representatives within the Council. This system, which appears to be based on the South African model, is the logical outcome of the Decree of May 20, 1954, which ruled that natives would not be granted "political rights with respect to non-indigenous institutions" (Article 23). This text was repealed by the Decree of September 6, 1961, and the question must again be raised as to the practical effects of that repeal. As far as is known, no amendment has been made to the Decrees of July 5, 1955, nor has the apportionment of seats to the various categories of voters been changed in any way. The great majority of the natives will be unable to satisfy the conditions laid down for enrolment on the electoral register: the reasons have already been given in Section I of the present chapter. The remainder will join the mass of the ordinary voters who elect, in Angola, eleven out of a total of twenty-six councillors, and, in Mozambique, nine out of a total of twenty-four. They will have no say, either direct or indirect, in the choice of the other councillors - those elected by the various intermediate bodies and those appointed by the higher administration. It should be pointed

out that the abolition of indigenous status should, in all logic, put an end to the system of native representation through specially-designed trustees.

§3. The Administration of the African Rural Areas

At the same time as it denied the natives the right to play a part in the life of the institutions referred to above, the Decree of May 20, 1954 made provision for the continued functioning of local political institutions of and for the natives. This matter is dealt with in the first section of Chapter II, which is entitled "Of Political Organization" and comprises Articles 7 to 24. In the speech he delivered at Oporto on August 28, 1961 announcing the coming abolition of indigenous status, Dr. Adriano Moreira also referred to an impending reform of the political institutions of the native populations.[17] And, in point of fact, Decree No. 43,893 of September 6, 1961 repealing the Decree of 1954 was duly accompanied by another Decree (No.43,896 of the same date) concerning the organization and administration of the local African aggregations. However, the seven Articles that made up the new text were more or less a re-enactment of Articles 7 to 24 of the Decree of 1954, except that the term "indigenous persons" had been replaced by that of "persons subject to customary law".[18]

A) The Units of Native Administration.

As has already been seen, the Provinces of Angola and Mozambique are divided into Districts which are then sub-divided into "councils" or "circumscriptions" depending on whether or not there is a preponderance of natives among the population. According to Article 1 of Decree No. 43,896, the basic unit of native administration, within council and circumscription alike, is the regedoria, which is under the authority of a native chief bearing the title of regedor. The same Article goes on to state that the

regedorias "shall be grouped under administrative posts", i.e., that they are at a level below that of the posto. In the matter of its organization, average area and size of population, the regedoria has been likened to the chefferie or chieftaincy that existed under the French colonial system. If its area so warrants, the regedoria may be subdivided into "groups of aggregations" (grupos de povoaçoes) and "aggregations" (povoaçoes). Under the terms of Article 2 the regedoria has jurisdiction over all persons resident within its territory who are subject to customary law.

Article 7 deals with the special case of native groupings that have come to exist with "council" areas and cannot be classified as forming either "parish" of regedoria. These consist mostly of detribalized groups encamped on the outskirts of towns and ports. Provision is made to the effect that the local authority may appoint one of their number as administrative regedor, who then exercises auxiliary functions in the matter of police work and civil administration.

B) The Organization of the Native Administration Units.

According to Article 3 of Decree No. 43,896, each area of native administration is placed under the authority of a native chief: regedor, head of aggregational group, head of aggregation. These are invested with their respective powers after consultation with each area population by the administrative authority: the regedors being appointed by the Provincial Governor (in Guinea) or the District Governor (in Angola and Mozambique), and the heads of groups and aggregations by the administrator in charge of the local circumscription. It is to be noted that the new text reinforces the powers of the administration, for under Article 12 of the Decree of 1954 the choice of the heads of groups and aggregations was left to the regedor himself. It would seem that in most cases these posts are given to long-standing servants of the administration or the army as recompense for their faithful services to the Portuguese fatherland.[19] It would also seem that these African chiefs, traditionally known in Portuguese as sobas,

are appointed, in effect, by the local chefe de posto, whose choice in this matter is merely rubber-stamped by the Governor or administrator. One of the witnesses heard by the International Labour Organization Commission, the Rev. W.D. Grenfell, stressed the fact that the soba was not chosen by the native community; he was simply a man on whom the administrative authorities could rely, and it was not uncommon for a village to have its own chief outside of the administrative network, " a man whom the population respect because they recognize him as being their true chief".[20]

Article 4, which repeats the provisions contained in Article 16 of the old text, rules that the regedor may be assisted in the exercise of his functions by a council of his own choosing, which shall consist of men "of the highest respectability". The names of those appointed to this council and those of any substitutes must be submitted to the "immediately superior" administrative authority, i.e., the chefe de posto, for approval.

Article 5 provides a clear definition of the position of the sobas within the administration:

> The heads of groups of aggregations and of individual aggregations shall be directly subordinate to the regedors, who in turn shall be subordinate to the administrative authority. Orders and instructions shall be sent to such chiefs either directly by the administrator or by the head of the local administrative post.

As regards their functions, Article 3 states that they shall exercise "the functions attributed to them by law and by local usage, on condition that such usage is not contrary to the law, and the functions delegated to them by the superior-ranking administrative authority". Furthermore, in their capacity as heads of the local militia, the sobas are bound to "observe and enforce the rules of military discipline". In return for these duties they receive a modest sum, the amount of which is fixed by the Governor.

Article 17 of the old text contained a series of provisions aimed at preventing certain abuses in which the sobas might conceivably indulge; they were forbidden to levy taxes for their own profit, to impose fines or prison sentences, to protect illicit trading in alcoholic liquors, etc. The new Decree contains no such provisions.

C) The Nature of the System.

Is the system described above one of direct or indirect administration? An answer to this question has been given by Professor Marcelo Caetano, Rector of the University of Lisbon and a jurist whom no-one can accuse of partiality for his country's institutions:[21]

> The close relations between the races, the concern for spiritual assimilation through education, and the pervasive use of Portuguese have meant that indirect administration has not been applied, or, if it has, it has taken the very mildest of forms. The law considers the native chiefs, appointed in accordance with old tribal customs and confirmed in their office by the European administrators, as being administrative authorities integrated into the Portuguese administrative system. These chiefs collaborate with the administration, receive orders and instructions from that administration and ensure that they are complied with by their subject.

Article 5 of Decree No. 43,896 - which has already been quoted - removes any further doubt: the sobas with their various ranks, form a downward extension of the Portuguese administrative hierarchy. The system is one of direct administration in its most pronounced form.

It is now possible to size up the overall system by which the Overseas Provinces are administered. Under the authoritarian regime practised by the Portuguese colonial authorities, the

participation of the native population in the administration both of the province as a whole and of purely local affairs is practically nil. This applies even to the administration of those groupings and aggregations that are specifically native, the chiefs being merely speaking-tubes to ensure that orders from the bridge are carried out below. The power that is wielded over the ten million Africans of the three Provinces emanates from a central authority over which they have no control, not even indirect or symbolic control; and the citizenship that has been bestowed upon them does not seem to have improved their situation to any great extent.

Part III

THE JUDICIAL SYSTEM

To complete this survey of the political and administrative institutions of the Overseas Provinces a look must now be taken at the rules governing the judicial system, at least insofar as they apply to the native population. These rules underwent radical change following the abolition of indigenous status by the Legislative Decree of September 6, 1961. The new system, as it stands at present, in nonetheless a fairly faithful reflection of the old. In the pages that follow these two phases in the evolution of the Judiciary will be examined in turn.

I. The system Prior to September 6, 1961: Duality of Jurisdiction.

For as long as there had been such a thing as indigenous status the judicial system in the Overseas Provinces was based on two classes of courts: the ordinary law courts and the native law courts.

The ordinary law courts followed the metropolitan pattern. At the lowest level came the courts of first instance, which were

distributed over the territory on the basis of one per district. There is one such District Court in Guinea, thirteen in Angola and ten in Mozambique. At a higher level were the Courts of Appeal: one in Luanda, for Angola and S. Tomé and Principe, and one in Lourenço Marques, for Mozambique; Guinea came under the jurisdiction of the Court of Appeal in Lisbon. Finally, as the last resort in the matter of appeal, there was the Supreme Court of Portugal in Lisbon.[22] These courts applied both Portuguese law and the laws peculiar to the individual provinces. Before the reform of September 6, 1961 their competence was confined, in both civil and criminal matters, to cases involving non-indigenous persons.

In the Decree of May 20, 1954 provisions regarding the native courts were set out in Section IV of Chapter II, entitled "Courts and Procedure" and comprising Articles 51 to 55. Under the terms of Article 51, the "municipal judges" (juizes municipais) were empowered to conduct investigation and to pass judgment in civil and criminal matter involving natives. The judge was to be assisted, in dealing with each case, by two native assessors chosen from among the more prominent of the local inhabitants for their knowledge of local customs (Article 52). The decisions of the Native Courts could be challenged by lodging an appeal with the court of the first instance and, if necessary, the court of appeal itself (Article 53). Disputes between natives and non-natives were to be settled by the ordinary law courts (Article 55). According to Article 54 the procedure in matters within the competence of the municipal judges was to be laid down in a special law.

It is not known whether that law ever saw the light of day. It would in any case seem that in the three Provinces of continental Africa these municipal judges existed only on paper; and a number of authors have written to the effect that both before and after 1954 there were no Native Courts in those territories worthy of the name and empowered to penalize and to settle disputes involving the native inhabitants.[23] The Portuguese Statis-

tical Yearbook for 1960 certainly makes mention of ten municipal judges in Guinea; but there is no reference to any in Angola or Mozambique.[24] The 1957 issue of the Statistical Yearbook for the Overseas Provinces contains the following statement:[25]

> In the judicial districts of Guinea, Angola and Mozambique there are also municipal judges whose territorial competence corresponds, in general, to the "circumscriptions" and "councils". The municipal judges are, as a rule, the administrative authorities of the "circumscription" or "council" (emphases added).

It is, in fact, noteworthy that the Decree of 1954 laid down no rules as to the choice of municipal judges and the qualifications required for appointment as such. Consequently, the simplest solution was to continue the old tradition that is common to most colonial systems - namely, plurality of administrative and judicial offices. Prior to 1954 justice was dispensed by the administrators and chefes de posto. After 1954 the administrators and chefes de posto simply added "Municipal Judge" after their other titles and continued as before. Dr. Adriano Moreira has defended this system; in a study published in 1958 he wrote:[26]

> One cannot deprive the administration of the power to dispense justice without, in so doing, endangering the peace...The simple necessity of "occupying" the territory judicially speaking, and the patent impossibility of doing so without resorting to the administrators there, seem to lead us to attribute to those administrators a measure of jurisdiction that is refused them in criminal cases relating to non-natives; and this is not to mention their inherent aptitude in such matters.

Thus trust is placed in the good sense of the administrative officials to dispense sound justice - an attitude that is well in keeping with Portugal's paternalism in colonial matters.

But there is no rule of procedure to ensure the ten million Africans who are justiciable before them of even the most elementary guarantees. Anyone who consults the judicial statistics of the three Provinces of continental Africa will be amazed by the figures he finds there. In Guinea the ordinary law courts tried, in one year, a total of 226 criminal cases (for a non-indigenous population of 8,320); the "native courts" - no details are given as to their composition - are recorded as having tried only 65 criminal cases (for a native population of 502,457).[27] In Angola, during 1959, the ordinary law courts tried 9,626 criminal cases (for a non-indigenous population of 135,355), while the "native courts" are on record as having tried only 545 cases (for a native population of 4,009,911).[28] In Mozambique, again in 1959, 2,450 criminal cases were dealt with by the ordinary courts (for a non-indigenous population of 117,405), while the municipal courts are recorded as having tried only 1,468 (for a native population of 5,646,957).[29] It is unlikely that these figures reflect the true extent of delinquency among both categories of population. It is much more likely that the justice meted out to the natives by the administrators and chefes de posto is of an expeditious nature, throws procedure to the winds and leaves no trace in statistics, the officials themselves continuing to confuse their duty to judge with the right to punish. This matter will be taken up again in the next chapter, when we come to examine how the penal laws are applied to the natives.

II.- The Decree of September 6, 1961; Unity of Jurisdiction.

Simultaneously with the abrogation of the Native Statute of 1954, an attempt was made to adapt the judicial system to the new situation thus created; this attempt is embodied in Decree No. 43,898 of September 6, 1961. Dr. Adriano Moreira had already given notice of this coming reform in his Oporto speech of August 28, 1961. Three years after having written that one could not "deprive the administration of the power to dispense justice without, in so doing, endangering the peace", the Minister for Overseas Provinces stated:[30]

> The problem we now face...is that of entrusting, whenever possible, the functions of judge to a legal specialist; of securing the intervention of a representative of the public prosecutor; and of admitting in every case the presence of a judicial mandatory, as an essential element in the right of defence...Steps are... being taken to...enable notaries and registrars to discharge the functions of municipal judge...Resort will only be had to the administrator for the discharge of judicial functions when there is no other official available.

First and foremost, Decree No.43,898 has unified the judicial system applying in the Provinces by abrogating all the rules in respect of competence that previously derived from the existence of two categories of inhabitants; as there is no longer any question of Native Courts, justice is to be administered solely through the medium of ordinary courts of law. The persons justiciable to these courts have consequently risen from a mere few hundred thousand to over ten million! The district courts are obviously in no position to cope with these new responsibilites. The Decree therefore provides for a host of local courts with limited jurisdiction. These include "courts of the peace" (julgados de paz) distributed on the basis of one to a parish or administrative post, and "municipal courts" (julgados municipais), on the basis of one to a council or circumscription. Given that Angola has roughly 250 administrative posts, the development that the judicial system will undergo there will obviously be enormous. We shall not enter into any details of this coming development but merely outline some of its more salient features.

First, the rules by which the magistrates of these new courts are to be appointed makes them heavily dependent on the Minister for Overseas Provinces and the Provincial Governor. The functions of municipal judge are to be discharged, in principle, by the "registrars", who are, in fact, on the staff of the administration; moreover, in areas where thereis no registrar

available it is the administrator himself who discharges these same functions (Article 8). Secondly - and even of greater significance - the functions of justice of the peace are to be discharged by the heads of administrative posts (Article 10) who may pass judgment whether or not any representative of the public prosecutor is present; the presence of such a representative is not, in fact, compulsory (Article 14). Once again, therefore, there is a convergence of administrative and judicial power, and in those areas where the African population predominates (circumscriptions and postos) there is a danger that justice will continue to be the preserve of the administrators and chefes de posto.

There is no doubt, however, that the new system marks a step forward. The local courts have only limited competence, especially in criminal matters; graver offenses are to be brought straight before the district courts. The powers of the justice of the peace are confined to matters of investigation and - as their name would indicate - conciliation. Except in cases where appeal is disbarred, the rulings of the Municipal Court are subject to revision by the District Court. The Decree also states that the municipal judges and justices of the peace shall be subordinate in rank to the professional magistrates presiding over the courts of the first instance (Article 12). The rules of procedure pertaining to ordinary civil and criminal law shall likewise apply, in principle, to the local courts (Article 28). Finally, the true import of the decision to establish uniform rules of competence must not be underestimated: all discrimination on ethnic or cultural grounds is henceforth done away with, and both Europeans and Africans are now justiciable to the same courts.

The system is as yet too recent to have had time to prove its worth. The actual setting up of the local courts will certainly be a formibable undertaking and will confront the Portuguese authorities with some difficult problems. It will doubtless take several years to recruit adequate personnel with suitable qualifications. Whatever happens, however, the experiment

is deserving of attention, for it betokens a sincere desire to give the abolition of indigenous status concrete and practical effect in the judicial field.

N O T E S

1 For Portugal's political institutions, see study by Professor Mercelo Caetano, L'Organisation politique portugaise, Lisbon, S.N.I.

2 The English translation of extracts from these legislative decrees will be found in Y.H.R. 1948, p.379.

3 Annuario Guiné, 1950-1, p.233; Annuario Moçambique, 1959, p.642. The Statistical Yearbook for Angola gives no details concerning registered voters.

4 Demographic Yearbook 1960, p.434.

5 Hailey, p.230.

6 Bulletin No.7, p.35; No.13, p.34.

7 Speech of November 9, 1961, Portugal IR, No. 6 (1961), p.330.

8 Egerton, p.256.

9 Duffy, p.243.

10 Egerton, p.83.

11 Ross, p.42.

12 Marcelo Caetano, L'Organisation politique portugaise,S.N.I.,p.17.

13 Duffy, p.286.

14 U.N. Report, p.63.

15 Hailey, p.357; Duffy, p.288.

16 The English translation of extracts from these decrees will be found in Y.H.R. 1956, p.194 et seq.

17 Portugal IR, No.5 (1961), p.285.

18 A commentary on Articles 7 to 24 of the Legislative Decree of 1954 will be found in Durieux, pp.16-25.

19 Hailey, p.563; Duffy, p.287.

20 I.L.O. Records, XIV, p.32.

21 Marcelo Caetano, Traditions, principes et méthodes de la colonisation portugaise, Lisbon 1951, pp.48-49.

22 Anuario estatistico 1960, p.331.

23 Hailey, p.621; Duffy, p.301.

24 Anuario estatistico 1960, p.331.

25 Anuario ultramar 1957, p.93, Note a).

26 Adriano Moreira, Le régime pénitentiaire des indigènes portugais, in Civilisations, Vol.VIII (1958), p.9.

27 Anuario Guiné 1950-51, pp.97 and 105.

28 Anuario Angola 1959, pp.82-84.

29 Anuario Moçambique 1958, pp.245 and 272-3.

30 Portugal IR, No.5 (1961), p.291.

CHAPTER III

P U B L I C F R E E D O M S A N D C I V I L R I G H T S

It is customary today, when speaking of the fundamental rights of the human person, to distinguish between civil rights, political rights, and economic and social rights. Thus the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on November 4, 1950, and the supplementary Protocol, signed in Paris on March 20, 1952, both deal with civil and political rights while the Social Charter, signed at Turin on October 18, 1961, is concerned with economic and social rights. The same distinction is found in the draft Pan-American Convention for the Protection of Human Rights, Chapter I being devoted to "Civil and Political Rights" and Chapter II to "Economic, Social and Cultural Rights".[1] As regards the native inhabitants of the three Portuguese Provinces of mainland Africa, the extent of their political rights has already been examined in the previous chapter. Their economic and social rights will form the subject of Chapter IV, V and VI. The purpose of the present Chapter is to define the extent and import of their civil rights.

How and to what degree is the African of Portuguese nationality assured of protection in respect of his person and his property? That is the question to be answered. It has two complementary aspect: 1) the direct influence exerted on public freedoms by the laws in force in the provinces; and 2) the extent to which the penal, civil and fiscal legislation as a whole guarantees protection of person and property.

Part I

PUBLIC FREEDOMS

It is obvious that the natives of the African Provinces cannot enjoy a greater measure of freedom than their compatriots of Metropolitan Portugal; following the abolition of native status their public freedoms are, in principle, to be such as prevail under ordinary law within the rest of the Portuguese Republic. It would seem, however, that certain characteristics of indigenous status still persists in the form of various constraints applying solely to the native.

I.- Public Freedoms Under Ordinary Law.

The Portuguese Constitution comprises 181 Articles. The first seventy Articles form Part I (Sections I to XIV) under the heading "Of Fundamental Guarantees". Article 8 deserves special attention since it enumerates at some lenght the "rights, liberties and individual guarantee" enjoyed by the Portuguese citizen. The principle of habeas corpus is provided for as a safeguard against the abuse of authority; this is in itself a striking novelty in a country practising continental written law. However, closer scrutiny confirms two points already made in the Introduction to this study: namely, the adroitness with which the Portuguese legislator can add to a text a seemingly innocuous clause that deprives the provisions it follows of tangible effect; and the gulf that can exist between the letter of a text and its practical application. Article 8, for example, contains the following provisions:

> §2. Special laws shall govern the exercise of the freedom of expression of opinion, education, meeting and of association. As regards the first item, they shall prevent, by precautionary or restrictive measures, the perversion of public opinion in its function

> as a social force, and shall protect the character of citizens...

The self-same Article further states that "nobody shall be deprived of personal liberty or arrested without being charged", but then tacks on the following reservations:

> §3. Imprisonment without formal charge is permitted in cases of flagrante delictu and in cases of the following actually committed, prevented or attempted crimes: those against the safety of the State, etc.
>
> §4. Except in the cases specified in the preceding paragraph, imprisonment in a public gaol, or detention in a private residence or institution for lunatics, is only permitted on a written order from the competent authorities.

The Constitution fails to specify who or what these "competent authorities" are, and the Government has been able to exploit this oversight.

It is not within the scope of this study to examine in detail the restrictions imposed on the basic freedoms under the regime of the Estado Novo. For enlightenment on this subject the reader is referred to a number of Articles already published in the Bulletin of the International Commission of Jurists.[2] The pages that follow are confined to a brief summary of the relevant laws. Through skilful manipulation of the clauses quoted above the Portuguese legislators have managed to circumvent most of the guarantees seemingly enshrined in the Constitution. Freedom of expression has been virtually abolished by a legislative decree (No.26,589) subjecting all publications, periodical or otherwise, to prior authorization from the Government. Another legislative decree (No.25,317) has drastically curtailed freedom of opinion by authorizing the Government to suspend or dismiss officials who "prove to be opposed to the fundamental principles of the Constitution or fail to pledge their co-operation in the realization of

the State's intentions". Law No.1,901 suppresses freedom of association by subjecting the activities of all societies, associations and organizations to permanent supervision by the administrative authorities; as everyone will know, all political parties were dissolved in 1926, with the exception of the Government party or National Union; furthermore, under Legislative Decree No. 37,447, to form an association of an international nature requires the prior consent of the Minister of the Interior, which consent is generally declined. The freedom to form and join trade unions runs counter to the basic principle of the corporative State, which only admits of official professional groupings. Still more glaring, however, are the restrictions imposed on the freedom of the individual by a legislation which has systematically shorn down the judicial guarantees. Two special courts have been created - one in Lisbon and the other in Oporto - with jurisdiction in political matters; both sit permanently and their members are closely dependent on the Government. Furthermore, the legislators have transferred a number of powers normally invested in the judiciary to the political police or Policia internacional e de defensa do Estado (P.I.D.E.) and made administrative internment one of the regime's basic institution. Under Legislative Decree No.35,042 the police may, without bringing a charge, arrest any person and detain him for a period of three months, thereafter extendable to six months. Under Legislative Decree No.40,550 the police are free, without warrant, to intern any person "deemed dangerous" for a period of from six months to three years, thereafter extendable by further periods of three years. These texts have enabled the Government to by-pass the law courts and have such persons as are suspected of opposing the regime either interned in the various camps situated in Metropolitan Portugal or else deported to Timor or the Cape Verde Islands. The constitutional guarantee of habeas corpus is completely inoperative, for the Supreme Court has ruled that it shall only apply with reference to judicial procedure and cannot be invoked in connection with safety measures taken by the administration. Thus we have a situation where, in a country that prides itself

on having enshrined the abolition of the death penalty and of life imprisonment in its Consittution, prisoners sometimes never come out of the P.I.D.E.'s cellars or lie "forgotten" for years on end in internment camps.

The situation is no better in the Overseas Provinces. The freedom of expression and association is no more respected and the police no less active than in Metropolitan Portugal. In fact, with regard to the right of association, an ordinance of June 1, 1954 (No.14,911) provides for an even greater measure of restriction in the Overseas Provinces by stiputlating that before any association may be constituted and assume legal existance its statutes must first be approved by the Governor or Governor-General of the Province in which it has its seat. The guarantee in respect of judicial institutions is likewise contravened; offences of a political nature are again referred to special courts and administrative internment provides the administration with an easy means of by-passing the courts. This point will be taken up later, and individual cases cited, in Chapter VII, where we shall review the struggle waged by the Portuguese administrative authorities against the various movements in opposition to the established regime.

II.- Obligations and Constraints Exclusive to Natives.

The Legislative Decree of September 6, 1961 may have abrogated indigenous status, but it did not abrogate all the texts that are based on discrimination between indigenous and non-indigenous persons. A case in point is the Decree of December 6, 1928 entitled "Native Labour Code for the Portuguese Colonies in Africa" and which is still in force. The Portuguese representatives giving evidence before the I.L.O. Commission stated that their Government was already busy drawing up a new text, but as yet the provisions contained in the Decree of 1928 continue to apply. Chapter IV of the Labour Code (Articles 87 to 94), entitled "Native Work-Book", established a system that is extremely prejudicial to the native's individual freedom.

The mainspring of the system is the following provision:

> Article 87.- Every male native resident in a colony who has attained the age of eighteen years shall be bound to procure an individual work-book to serve as an identity card and record of employment, which shall be known as a "native work-book".

This "native work-book" is the notorious caderneta, which has provided the administrative authorities with a thorough means of checking and controlling not only matters of employment but also the comings and goings of the natives and the payment of taxes. The question of labour control will be examined more fully in Chapter VI; it is, however, relevant to the present context by reason of the means it affords the authorities to keep watch over the native's private life. Article 90 stipulates the various particulars that should be entered in the work-book: occupation or employment, usual place of residence, "the manner in which he performs his duties as a native worker"; lastly:

> In addition to these entries, further entries may be made compulsory in respect of the payment of the native tax...and any other particulars considered practically useful in connection with the life of the natives or convenient proofs of their identity and rights and the performance of their duties (emphases added).

According to Article 92, "the work-book shall be kept by its holder". The holder must be able to present it to the authorities on demand and prove that the entries regarding place of residence, work, taxes, etc., are in order. Observers have remarked that this checking of work-books often degenerated into despotism and was exceedingly unpopular. In the opinion of James Duffy, the primary reason for the mass emigration of Africans from Angola and Mozambique into the neighbouring countries was simply to escape their subservience to the caderneta system.[3]

The Decree of May 20, 1954 imposed even heavier restrictions on the native's freedom of movement. Under Article 9 natives may not move from one locality to another without authorization from the administrative authorities; application must be made to he chefe de posto in the case of movement within a circumscription and to the administrators concerned in the case of movement from one circumscription to another. Article 17 (4°) stipulates that even the sobas may not leave their circumsciption without prior consent from the authorities. According to evidence gathered by the United Nations Sub-Committee on Angola, these provisions have always been rigorously applied; any native found outside his regedoria without a pass was immediately arrested; natives were said to have been refused authorization to travel for the purpose of receiving medical treatment and doctors had been instructed to turn away all native patients without a proper pass; in the town - Luanda especially - pass checks had often been made a pretext for police raids in the native quarters.[4] Though, in theory, they belong to the past, such incidents are sufficiently recent to justify reference to them here. For it is far from certain whether, in spite of the repeal of the Native Statute of 1954, the practice of checking and controlling the natives' movements has indeed ended. There are two reasons for doubt in this connection. In the first place, the ingrained habit of asking for permission to travel is hardly one that the African will lose overnight; and it is highly improbable that the chefes de posto will have made it their business to enlighten in this matter. Secondly, under the regulations issued in application of the various decrees and which, until they are themselves annulled, will continue to remain in force, the carrying of passes is still compulsory. Natives in Angola, for example, are still governed by Legislative Instrument No. 2,797 of December 31, 1956, enacted in application of the Labour Code of 1928. Under the terms of Articles 78 to 80 of this Instrument, a native in search of employment may obtain a pass authorizing him to absent himself from his usual place of residence for fifteen days if he finds no employment within that period, he must return to his place of origin.[5]

Lastly, mention must be made of a text that, while not overtly concerned with the natives, can exert a baneful influence over their lives: this is the Legislative Decree of March 28, 1961, which provides for the formation, in each of the Overseas Provinces, of a Volunteer Corps whose task is to help maintain law and order and defend Portuguese sovereignty. Under the terms of Article 24, any act committed by a volunteer in answer to assault against himself or any other volunteer is regarded as an act of self-defence. Furthermore, in the event the volunteer employes "excessive means" to defend himself, had previously provoked his aggressor, or only replies to the assault after it has been committed, he is absolved of any culpability if it is proved that "he acted in a state of excitement such as to diminish his responsibility". It is obvious where such a provision can lead in a time of disturbance such as has recently been witnessed in Angola: preventative and repressive acts of the most inhuman nature are excused even before they have been committed; the very lives of the natives are at the mercy of the Europeans' emotional reaction. The use made of this immunity by the Portuguese volunteers will be examined more closely in a later Chapter against the background of the events that took place in Angola in 1961.

Part II

THE LEGISLATION

§1. Criminal Law

Uniformity of criminal law in the Overseas Provinces is at precept of long standing. Article 25 of the Native Statute of May 20, 1954, ruled: "In the absence of explicit legislative provisions concerning indigenous persons, the provisions of ordinary criminal law shall apply." Concurrently with the repeal of the Statute of 1954, Decree No.43,897 of September 6, 1961

adapted the provisions it contained in respect of civil and criminal law. Under the terms of Article 10 of the new text:

> The same criminal laws shall apply to all. However, a judge, when assessing an offender's conduct and imposing penalty, shall in every instance take into consideration the influence exerted on the said offender and his actions by his social condition and his status in private law. In the enforcement of any penalty the principle of personalization shall be observed.

This rule of personalization can only operate in the accused's favour; equally praiseworthy is the recommendation that the judge duly bear in mind that the person standing before him is an African. Is, however, the system of penalization completely and unreservedly uniform? There are two reasons for doubt in this connection.

I. First there is a legal reason. Article 26 of the Decree or Native Statute of 1954 provided that in the case of a native a penalty of compulsory labour could be substituted for one of imprisonment. In his study on The Penitentiary System and the Portuguese Native, Dr. Adriano Moreira pointed out that the application to the native of ordinary criminal law was "the greatest single factor of law and order" but that it has to be viewed with a certain flexibility; though it was valid in the matter of defining offences it could not be observed when deciding on penalties. The author concluded by saying: "Wide experience, based on sound doctrine, has indicated that the basic penalty for the native offender should take the form of labour."[6] This concept was put into practice by a Legislative Decree of December 29, 1954; this overruled the option provided for by Article 26 of the Native Statute by stipulating that:

> Article 16.- In the case of natives sentences of imprisonment shall be replaced by labour for public purposes for an equivalent period extended by one

third, and minor pennalties shall in every instance be replaced by an equivalent term of penal labour.

These provisions are, in fact, in perfect keeping with those contained in Articles 302 to 306 of the Native Labour Code of 1928 where "penal labour" is defined as "labour to which a native may be sentenced by the competent courts when he commits a crime for which a penalty is provided in the general laws...".

Although the Decree of May 20, 1954 has been repealed, the Labour Code of 1928 remains in force. The same applies to the Legislative Decree of December 29, 1954, which, so far as the author is aware, has never been repealed. Consequently, it is not beyond the bounds of legal possibility that some courts are continuing to impose special penalties on native offenders on the basis of the time-worn principle that compulsory labour is the most effective form of punishment that can be allotted to them.

II. The second reason is of a more down-to-earth nature. Attention has already been drawn to the fact that the administrators exercising judicial functions show little concern for procedure and readily confuse judgment with punishment. A great number of witnesses have testified that most of the penalties imposed on natives by the chefes de posto - in the supposed fulfilment of their judicial duties - are other than those provided for in criminal law. This is one of the weaknesses of the Portuguese colonial system; as a result of the wide measure of independence enjoyed by the lower-ranking officials of the administration, certain practices have sprung up outside of the law and have become more powerful than the law - practices such as corporal punishment and, possibly, deportation to labour camps.

The administrative authorities deny that corporal punishment has ever been inflicted on Africans. Mr. Baptista de Sousa, Director of Native Affairs in Angola, stated before the I.L.O. Commission of Enquiry that sanctions of that nature were strictly prohibited and that any official acting in contravention of that

ruling would be brought before a court of law.[7] During the Commission's visit to Africa the officials and private employers it questioned were unanimous in their contention that "corporal punishment had not been used for a very long time".[8] Too many witnesses, however, have spoken of the use made by the administrators and chefes de posto of the chicote (a sort of leather whip) and the palmatoria (a perforated wooden paddle for beating the palm of the hand) for there to be any serious doubt as to the existence of such measures. Reports of various foreign observers, such as Basil Davidson, James Duffy and Peter Ritner, all tell the same story.[9] James Duffy states that the Portuguese officials have a sort of sentimental attachement to punishment of this kind, for it has been practised for centuries and is in keeping with their paternalistic attitude; one high official is said to have told him: "We Portuguese look upon the natives as children, and since we are good parents we must naturally correct them from time to time!"[10] Antonio de Figueiredo adds that these beatings are often inflicted for trifling matters that are no more provided for in criminal law than is the punishment itself; the most common motives are disobediance and lack of respect towards a white official or employer; the palmatoria is also a convenient and expedient means of punishing truly criminal offences, for it does away with any form of procedure and entails less expense than a prison.[11] According to these same authors, the right to inflict such corporal punishment is, in theory, the exclusive privilege of the officials, but many private employers also resort to this crude form of justice. In his report on the enquiry he conducted in Angola and Mozambique in 1924, Professor Edward A. Ross mentions that he received complaints concerning whippings carried out by the administrators[12] and white settlers[13], he writes that when the chefe de posto wished to arrest an offender and failed to find him at his home, he would promptly round up members of his family as hostages.[14] To these reports can be added more direct and recent evidence. In the course of its enquiry the United Nations Sub-Committee received numerous complaints from Africans inhabiting various regions of Angola; its report summarizes them in the following terms:[15]

> Information...seems to indicate that beatings and arrests have long been considered by the indigeouns inhabtiatns as part of the common order in Angola... In incident after incident described to the Sub-Committee, the stories of harshness, injustices and ill-treatment were substantially the same except for the time and place. In particular, there were many complaints about the use of the palmatoria, a wooden paddle with holes and sometimes with nails, and the use of the chicote, a leather whip, mostly by labour overseers.

The I.L.O. Commission likewise received many statements to the same effect. The Rev. M.W. Hancock had been an eye-witness of a beating inflicted on a native with a palmatoria on the premises of an administrative post in Cabinda.[16] The Rev. C.J. Parsons and the Rev. W.D. Grenfell stated that at their missions they had frequently treated Africans for wounds on the palms of the hands and soles of the feet caused by blows from a palmatoria.[17] The same witnesses, as well as an Angolese, Mr. Kambandu, reported that such punishment was often inflicted on the villages chieftains, especially when they failed to provide the labour hands demanded by the administrative authorities.[18] These witnesses all stated that the palmatoria formed an essential part of the administrative post's furnishings. The Rev. E.L. Blakebrough handed the Commission one of these instruments as an exhibit; he had procured it in August 1961, during an exploratory mission in the border region between Angola and the Congo.[19]

Information regarding deportation to labour camps is both more scarce and more vague. Basil Davidson makes brief reference to it.[20] Two Angolese witnesses heard by the I.L.O. Commission, Mr. Kambandu and Mr. Paulu de Almeida, mentioned the existence of camps at Baia dos Tigres, Roçada, Damba and Floresta de Maiombi, but admitted that they knew of them only by hearsay and had never seen them personally. Deportation to such internment camps is said to be yet another expedient resorted to by the administrators

and chefes de posto on their own authority and in complete absence of any judicial procedure. Mr. Kambandu stated that he was personally acquainted with persons who had been sent to these camps; none, so far as he knew, had ever returned from the camp at Damba, where conditions were reported to be particularly harsh.[21] Mr. de Almeida stated that such internment - especially in the Baia dos Tigres camp - was a common penalty for failure to meet tax commitments; he quoted the case of two young persons in Luanda whose father was a chauffeur at the American Consulate and who were thought to have been deported, one to Baia dos Tigres and the other to Floresta de Maiombi.[22]

There seems to be no doubt therefore that, however fair-minded and egalitarian the criminal laws may be, reprehensible practices of a clearly discriminatory nature vis-à-vis the native inhabitants have been established outside of the law. And it is precisely because they are outside of the law that doubt may be entertained as to whether the recent legislative reforms will mean their immediate and total discontinuance. The point will perhaps be raised that the Native Statute of 1954 contained provisions to counter any possible abuse of power by the administrative officials; by way of example the following passage might be quoted:

> Article 24.- Indigenous persons shall have the right of petition and complaint, which they may exercise at all administrative levels and in particular with regard to administrators of indigenous affairs and administrative inspectors.
>
> Sole paragraph.- It shall be a disciplinary offence for any overseas official to attemptany obstruction or reprisal with regard to the exercise by indigenous persons of the right conferred by this Article.

The second paragraph affords an excellent example of a phenomenon already referred to in the Introduction: namely, the implicit avowal of a problem by virtue of a text's form and wording. The

need to provide for the imposition of penalties on officials attempting to obstruct the right of petition obviously indicates that the officials were already known for their unwillingness to facilitate the exercise of that right. In point of fact, there are many reports to show that, both before and after 1954, any complaint to the administrative authorities could only mean trouble for the natives - never help. In his report of 1925, Professor Ross quotes the case of a settler who, failing to catch an African whom he suspected of having robbed him, set the whole village on fire; the inhabitants did not dare to lodge a complaint.[23] Some indication of the situation subsequent to 1954 is given by the evidence of various witnesses before the I.L.O. Commission of Enquiry. When asked by a member of the Commission why it was that the natives suffered ill-treatment without filing a complaint, the Rev. Hancock replied: "The fact of having complained doesn't improve their situation in the least; having done so, they are beaten and subjected to further illtreatment."[24] The Rev. Parsons mentioned the following two incidents that were reported to have occured in the Congo district of Angola in June 1960. Having received no wages for several months, the workers on a certain plantation sent one of their member to lodge a complaint with the chefe de posto; the latter had the complainant punished so severely that he had to spend a month in hospital. The second incident took place at about the same period, during a tour by one of the administrative inspectors in the Maquela region the local sobas handed him a written petition from a teacher at the district school; the administrative authorities not only ignored the request but retaliated by having the teacher dismissed from his post.[25] Similar evidence was received by the United Nations Sub-Committee, whose report stated:[26]

> Although, under the law, persons of indígena status had the right of complaint and petition, the Sub-Committee was told that Africans did not dare to exercise this right.

The Sub-Committee concluded that these practices had the effect "of discriminating against the indigenous inhabitants and of denying to them or restricting enjoyment of many of the fundamental freedoms and human rights."[27]

§2. Civil Law

The body of civil laws applicable to Portuguese of European extraction continues, as before, to be that of Metropolitan Portugal supplemented by legislative and statutory provisions peculiar to each province and more especially by the local laws enacted by the Legislative Council. Under the system embodied in the Decree of May 20, 1954, natives were to be governed "by the usages and customs pertaining to their respective societies" (Article 3). This principle has been very wisely retained. Notwithstanding the abolition of native status, Decree No.43,897 of September 6, 1961 - which, as has been said, recast the provisions of the Decree of 1954 relating to civil and criminal law - lays down the following rule:

> Article 1.- Irrespective of whether they have been codified or not, the usage and customs practised in the regadorias and governing private relations in law shall be considered as having legal force.

The following paragraph provides that the Governors of the Provinces shall ensure that these customs are duly codified. Codification of native customs has long been sought after by the Portuguese authorities, but without any real success.[28] The Decree goes on to say that subjection to local customary law shall constitute a personal status that remains with the native irrespective of his movements within the national territory (Article 2); he may, however, relinquish this status and become amenable to "written private law" (lei escrita de direito privado),

i.e., ordinary Portuguese Law (Article 3). This option between local usages and Portuguese legislation in the vast field of Private Law (marriage, filiation, inheritance, contracts and obligations, etc.) is an altogether sensible solution - it is found in a number of colonial systems - and is free of any form of discrimination. A few remarks will now be made with regard to one particular field of private law, that of property.

I. Decree No.43,897 provides that, as an exception, individual ownership of movable (Article 7) and immovable (Article 8) property shall be governed solely by "written private law". The application of this rule to movable property is perfectly straightforward. Its application to immovable property is a more delicate and complicated matter since the law also provides for a system of collective ownership. Thus there are two systems existing side by side: one governed by written law and the other by custom.

The concept of a specifically native form of ownership of land is given expression in the Constitution:

> Article 143.- The natives are guaranteed, in accordance with the law, in their property and in the possession of their lands and crops and this principle shall be respected in all concessions made by the State.

The principle is elaborated in the Organic Law of June 27, 1953:

> Division LXXXV.- Special regulations governing the ownership of land shall be recognized or established as applicable to the natives with respect to areas intended for their settlements or for cultivation by them, the said regulations to observe the following principles:
>
> a) The ownership, which may be evidenced by deed and can be registered, shall be respected in all concessions made by the governments of the overseas provinces, save in the case of expropriation in the public interest...

> b) The right of ownership, evidence as described above, shall not be transferable between natives except in the manner laid down in the special regulations or by native custom as recognized in the said regulations...

This property system "sui generis" was further defined in Articles 35 to 46 of the Native Statute of May 20, 1954. The bulk of the provisions they contained have since been re-enacted under Article 8 of Decree No.43,897 of September 6, 1961:

> Article 8.- The law shall guarantee the inhabitants of the regedorias the joint use and enjoyment, in the manner prescribed by customary law, of the land necessary for their settlement and for the growing of their crops and for the grazing of their cattle. Occupation of land as provided in this Article does not confer individual rights of ownership and shall be governed, as between indigenous persons, by the relevant usages and customs. Matters not governed by custom shall be amenable to the written private laws relating to communal property.
>
> Sole paragraph.- If the regedor, in accordance with his counsellors, so request, the District or Provincial Governor may authorize that rights of individual ownership be established in respect of lands hitherto jointly owned and occupied by villages and under permanent cultivation. Such privative rights over lands hitherto reserved for joint use and enjoyment may only be acquired by the inhabitants of the regedorias in question.

The term "inhabitants of the regedorias" is obviously the new-style manner of describing the natives now that indigenous status has been abolished. This system of collective property, under which the individual's rights are determined by custom and those of the community protected by written law against expropriatory measures from outside, is the general rule for those natives who have retained their traditional way of life, that is to say the

vast majority. They are nontheless given the opportunity of acquiring personal rights over land other than that governed by this system and, subject to the procedure noted above, over a part of those lands hitherto under collective tenure. Following recognition of his rights of individual ownership the native concerned receives a certificate of individual title - known as modelo J - from the Land Registry.[29]

II. Do these laws assure the African of fully adequate protection in respect of that fundamental civil right, the right to own land? The question can only be answered by placing it in its overall context, namely, that of the general land policy practised in Portugal's Overseas Provinces. This policy was the subject of a recent law, Decree No.43,894 of September 6, 1961, which has remodelled all previously-existing legislation into a single-embracing document as part of the legislative reform that came with the abolition of native status. Examination reveals, however, that this text merely confirms, with modifications, the rules that have already been in force for more than a century.

The lands that make up the Overseas Provinces are traditionally divided into three categories: 1) public property owned by the Portuguese State; 2) land owned by the Provinces; and 3) land legally held as private property.

The public State-owned property is dealt with under Article 49 of the Constitution, which lists the various properties within the metropolitan territory. Article 161 further adds that lands constituting public property in the Overseas Provinces shall be defined by law. The text currently in force in this connection is Decree No.43,894, which defines as public property the banks and channels of maritime waters, the continental shelf, roads, railways, airfields, etc.

The lands held as private property originated in territorial concessions whose holders have acceded to definitive title following a probationary period and the fulfulment of certain conditions.

The greater part of the land is the property of the Province. The nature and administration of this property are governed by two rules:

1. The first forms part of Article 167 of the Constitution:

> Article 167.- The following are state property in each of the Overseas Provinces within the limits of its territory: waste lands and those lands in respect of which neither public nor private title has been finally established; unclaimed inheritances and other real or personal property which do not belong to anybody.

Thus any land that is neither publicly nor privately owned is to be regarded as vacant and the property of the Province. This principle was enshrined in the Law of May 9, 1901 concerning land ownership. It is likewise embodied in Article 2 of Decree No. 43,894 of September 6, 1961.

2. The second rule is that the provincial government may concede temporary and possibly definitive rights in respect of this property: the term "waste (or vacant) lands" does not necessarily mean that they are unoccupied. They may be occupied by grantees or by natives.

a) The granting of concessions in respect of provincial property was the subject of a complex body of laws which have been recast and today form Title II of Decree No.43,894. The details of their successive legislation cannot be entered into here. The system of granting concessions has descended from that of the prazos, which has already been applied in Mozambique as early as the 17th century. The guiding principle has been that the local authorities must first decide on the best possible use to which the land under its superintendence may be put and subsequently subject grantees to rigid conditions regarding their utilization of the land conceded. After a certain period and providing he conforms to those conditions, the grantee ultimately accedes to definitive title. The land then ceases to be the property of the Province and becomes the private property of the grantee in question. Under this system areas of up to 50,000

hectares (125,000 acres) have been first conceded and then definitively made over to white settlers and various colonization societies.[30]

b) The lands used and enjoyed collectively by the natives inhabiting the regedorias are likewise the property of the Province. Thus the system described above in respect of those lands is not of collective property in the true sense but rather one of usufruct, the administrative authorities retaining eminent domain over the lands in question.

Does this system afford sufficient guarantee for the safeguard of the African's rights? The authorities are naturally bound by the legislation obliging them to respect those rights. The Law of August 21, 1856 concerning the concession of vacant lands stipulated that no concession could be made of lands "necessary to the welfare of the local population or already occupied or habitually cultivated by the natives".[31] As already seen, this same rule has since been reiterated in Article 143 of the Constitution, in the Organic Law of June 27, 1953 and in Decree No.43,897 of September 6, 1961. In his speech at Oporto on August 28, 1961, the Minister for Overseas Provinces, Dr. Adriano Moreira, stated that there was no land problem in the African Provinces, that there was a superabundance of land, and that it had always been the authorities' policy to guarantee each African aggregation an area of expansion vast enough to obviate the danger of any disputes.[32] However, in a study published in 1956 Dr. Moreira himself had previously emphasized that the administrative authorities refused to indulge in blind acceptance of native rights and were particularly adamant in rejecting any claim to rights that were of a purely traditional or historical nature; the authorities demanded that the land must be effectively occupied and used "in accordance with the social purpose of the property".[33] Abuses will obviously tend to multiply under a system where the local government, as the real landowner, is not only authorized to concede vast areas to settlers and private companies on a temporary and/or definitive basis while the native communities

must be content with certain usufructuary rights, but is further given great latitude in the apportionment of arable land among the natives on the one hand and the settlers on the other. For the last ten years the Portuguese Government has been pursuing a policy of planned colonization in both Angola and Mozambique; it is to be feared that his mass influx of immigrant settlers will aggravate the danger of conflict on land issues. For in spite of what Dr. Moreira has said, a land problem may well exist in those two provinces. A study of the legislation alone does not provide sufficient evidence that the natives' land rights are fully and effectively protected. A look must be taken, therefore, at the policy pursued by the local authorities in the administration of their immovable property.

III. The Portuguese statistical documents that were consulted failed to rpovide an overall picture of the actual distribution of arable acreage among the native communities and the settlers or colonization societies established in each province.[34] Nontheless, the statistics relating to territorial concessions afford some enlightenment. They reveal, for example, that in Angola, which has an area of 1,246,700 square kilometers, the lands conceded in the course of 1959 totalled 104,641 hectares and that the overall area of conceded land as of December 31, 1959 was 3,253,665 hectares, not including urban concessions.[35] The concessions thus account for roughly 2.5% of Angola's total area, which, at first sight, can hardly be called excessive. A somewhat different picture, however, emerges from the figures relating to concessions in the Districts that are most open to European colonization. For example:

District	Total Surface Area:		Total Conceded:	
	(hectares)	(acres)	(hectares)	(acres)
Luanda	3,070,900	7,677,250	414,903	1,037,257
Cabinda	727,000	1,812,500	639,252	1,598,130
Cuanza-Norte	2,710,600	6,776,500	478,965	1,297,412
Benguela	3,864,800	9,662,000	224,074	560,185

The District of Cabinda is seen to be almost entirely in the hands of concession holders. Yet its population consists of 49,112 Africans, 660 mulatos and 734 whites. The concessions in the other three Districts are less extensive but still account for a substantial portion of the total area.

Statistics are merely quantitative and the fact of Angola's extremely large surface area may tend to mislead. Most of the interior, east of the mountainous region, is covered with poor soil and is unsuited for cultivation. It is in the more fertile and more favourably situated areas that conflicts may arise, for it is precisely these areas that have been earmarked for colonization projects. Observers have reported that a number of native communities have already had to give way to settlers. A correspondent of The Times of London who visited the colonization centre at Cela in 1955 wrote that 200 African families had been moved to make room for 150 European families.[37] At about the same time James Duffy reported that in the Congo District certain lands traditionally occupied and cultivated by the natives had been taken over by European coffee planters, and that in Mozambique a number of native villages had been obliged to cede their land to suger-cane-growers.[38] In the course of his evidence before the I.L.O. Commission, an Angolese witness, Mr. Kambandu, made reference to incidents in the Golungo Alto region (Cuanza-Norte District) in 1946 and 1947, and in the Cocala region (Huambo District) in 1955 and 1956 - incidents arising out of the usurpation of lands occupied by African communities.[39] The witness gave an interesting description of the technique used in the usurpation of such lands; the laws relating to concessions provide that appeal may be lodged against an impending concession within a certain period following its public announcement; in theory this procedure is very sound, but since almost everyone of them is illiterate the natives are unaware of the public announcement and, consequently, of the deadline by which they may legally appeal; the first thing they know is that the settler is on their land, and by then they can do nothing. The United Nations Sub-Committee received numerous complaints. It found

that the land problem had become more acute with the increasing immigration of white settlers; this was particularly true in the Congo and Cuanza-Norte Districts. It considered the disturbances that broke out in Angola in March 1961 as deriving to a large extent from the Portuguese Government's land policy. It drew the following conclusions:[40]

> These abuses seem to have arisen mainly because of the gulf between the civil authorities and the indigenous inhabitants, the loopholes in the legislation, the complexities of procedures, the pressure of the settlers and the corruption of some of the administrators...The Africans began to feel that the Administration was serving the interests of immigrants at the expense of their long-established rights. The Sub-Committee heard complaints that they had been deprived of large portions of their lands in certain areas, often the best land, by inequitable interpretations of the law or in contravention of the law...The Sub-Committee was told that...local administrators deprived the indigenous inhabitants of their lands on the pretext that they had been abandoned. In some instances the indigenous inhabitants had been compelled to sell their lands or had been given less fertile lands in replacement...As the settlers or absentee plantation-owners staked out land which had been occupied by the indigenous inhabitants, the latter were forced to become labourers or tenant farmers on the plantations or to subsist on small areas of inferior quality.

Rightly enough the Sub-Committee levels an accusing finger at the collusion of settlers and administrators with the purpose of abusing guarantees provided by law. But should one not also indict the very attitude of mind that creates a system where ownership of the land is transferred <u>en bloc</u> to the administration while the natural occupants of the land are left with no more

than a precarious right of use and enjoyment? By what right is the ownership of the land considered the corollary of political sovereignty? The eminent right that the Portuguese Government has assumed, on its own authority, over the natives' land and the use it makes of it to further a policy of inordinate colonization would seem to be incompatible with the guarantee of the right to own immovable property which the Africans are reasonably entitled to claim.

§3. Fiscal Law

The financial and budgetary organization of the Overseas Provinces will be studied in the next chapter. By reason, however, of its influence on both the person of the native and his property, the matter of native taxation is of some relevance to the present context.

The abolition of indigenous status does not appear, as yet, to have brought any uniformity to the tax commitments imposed on the inhabitants of the African Provinces. Non-natives pay no general tax on their income; instead there is a complicated system whereby their incomes are taxed directly according to their source.[41] The natives are subject to an annual tax known as "personal tax", "native tax" or "hut tax" (depending on theProvince) and which is payable by all male natives of between 16 and 60 years of age.[42] All that will be examined here is the amount of the tax and the manner in which it is collected.

I. The amount of the annual tax is established each year, for the whole Province, by the Governor or Governor-General. In 1960, in Angola, it is reported as having varied from 120 escudos in the rural districts to 250 escudos in the urban area of Luanda.[43] The important point is that until recently the law had related the amount of tax to the minimum salary - not in order to fix the

tax on the basis of the salary but to fix the salary on the basis of the tax! This rule was included in the Native Labour Code of 1928, the basic provision being the following:

> Article 197.- The wages of native workers shall be fixed in each colony in conformity with the following provisions:
> 1. if the wages are reckoned by the working day, the daily rate shall be 1 - 1.5% of the total amount of the native tax which each worker liable to the said tax is bound to pay annually:
> 2. if the wages are reckoned by the month, the monthly rate shall be 25 - 40% of the same amount in cases where the contract is made in terms of years or months of employment...

Simple aritmetic show that, in the case of a day wage and given 300 working days in the year, the tax would amount to between 22% and 33% of the salary earned; while workers receiving a monthly salary and assumed as working for 12 months in the year would pay from 20% to 33% of their income! The enormity of these deductions becomes even more apparent when one bears in mind that the average salaries paid in the Portuguese territories are among the lowest in Africa. What the annual tax really means is that every African between the age of 16 and 60 is obliged to work for three or four months of the year for the exclusive benefit of the administration.

In the report published by the I.L.O. Commission reference is made to a statement according to which Article 197 of the Native Labour Code has been repealed by Order No.17,771 of June 11, 1960, which has introduced new provisions regarding the fixing of minimum wages. Under a regulation that came into force on December 14, 1961 the annual tax in Angola was to vary between 120 and 480 escudos, "having regard to the resources of the taxpayers and the degree of economic development of the areas where they reside".[44] Given the average wage level, this tax

still weighs considerably heavier, in proportion, than that borne by the non-native.

II. The methods provided for the collection of the annual tax reveal a further measure of discrimination which is explicitly sanctioned in the Constitution itself:

> Article 146.- The State may only compel the natives to work on public works of general interest to the community...in the execution of judicial sentences of a penal character or for the discharge of fiscal liabilities.

As will be seen in Chapter VI, the payment of the annual tax has always been closely associated, in the Portuguese Provinces of Africa, with labour in the service of a private employer or the administration. For the African husbandman, living at no more than subsistence level, the annual tax is a heavy burden. To precure the ready money necessary he must spend several months working for a settler; alternatively, the authorities will either comepl him to do so and have the amount of tax due paid in directly by his employer or else accept payment in kind and have him work for them gratis until he has paid off the amount owing.

It is not surprising that this system has led to flagrant abuses and become extremely unpopular. As long ago as 1924 Professor Ross wrote that numerous cases of exaction had been reported in both Angola and Mozambique.[45] Lord Hailey, who is no contraversialist, has remarked that tax collection provides the authorities with an easy means of procuring labour for the European planters.[46] The matter was recently brought up before the I.L.O. Commission and the United Nations Sub-Committee. In its report the Sub-Committee stated:[47]

> The administration of this tax has apparently been a major source of grievance, mainly because many Africans found it hard to raise the required sum in cash, and the punishment for non-payment was generally

> "compulsory" labour in public works...The Sub-Committee was informed of many instances in which a man who had not paid his taxes was imprisoned while his wife and family were made responsible for raising the required sum. It was said that students over 16 were not exempt from taxation and some had to leave school to earn money to pay this tax.

It is perhaps worthwhile to pause at this stage and to cast an eye over the ground that has been covered so far and over that which remains. Up till now the situation of the natives in the Portuguese Provinces of mainland Africa has been viewed in abstraction. They have been considered in their capacity as Portuguese nationals and citizens and placed against the background of the political, administrative and judicial institutions of the Portuguese Republic and its Overseas Provinces. An attempt has been made to evaluate the civil and political rights guaranteed them by those same institutions. In many instances and notwithstanding the undoubted progress represented by the abolition of indigenous status and the recent legislative reforms, it has been seen that the Africans are still far from being Portuguese citizens in the fullest sense, that they continue to be the victime of certain discriminatory measures, and that the public freedoms and the civil and political rights allowed them are hedged with conditions and reservations that are a good deal more restrictive even than those imposed on their metropolitan compatriots. Attention must now be given to the more concrete realities of their day-to-day existence. The object of the next three chapters is therefore to define the economic, social and cultural conditions governing their everyday lives and the prospects of economic, social and cultural advancement offered them under the Portuguese colonial system.

N O T E S

1 The text of the draft Pan-American Convention will be found in the Journal of the International Commission of Jurists, Vol. IV, No.1.

2 See Bulletin, No.7 pp.34 et seq., No.8 pp.41 et seq., and No.13 pp.30 et seq.

3 Duffy, p.304.

4 U.N. Report, p.70

5 This text is reproduced in the I.L.O. Report, p.80

6 Civilisations, Vol. VIII (1958), pp.3 and 10.

7 I.L.O. Records, III, p.9.

8 I.L.O. Report, p.220.

9 Davidson, pp.217 and 232, Duffy, p.304; Ritner, p.118.

10 Duffy, p.304.

11 Figueiredo, p.96.

12 Ross, pp.22 and 33.

13 Ross, pp.8 and 26.

14 Ross, p.38.

15 U.N. Report, p.70.

16 I.L.O. Records, XV, pp.47 and 54.

17 I.L.O. Records, XVI, pp.3 and 30.

18 I.L.O. Records, VI, p.26, and XV, p.47.

19 I.L.O. Records, XV, p.59.

20 Davidson, p.232.

21 I.L.O. Records, VI, p.26.

22 I.L.O. Records, VII, pp.15, 23 and 27.

23 Ross, p.21.

24 I.L.O. Records, XV, p.53.

25 I.L.O. Records, XVI, pp.19 and 20.

26 U.N. Report, p.70.

27 U.N. Report, p.71.

28 Hailey, p.622; Duffy, p.300.

29 On individual title to porperty see Durieux, pp.45-48; J. da Silva Cunha, Article in Civilisations, Vol. VI (1956), p.654; I.L.O. Report, p.152; I.L.O. Records, statement by Mr. Baptista de Sousa, II, p.16.

30 Hailay, p.755.

31 A. de Sousa-Franklin, The Portuguese System of Protecting Native Land Property, in Journal of African Administration, January 1957, p.16 et seq.

32 Portugal IR, No.5, (1961), pp.287-288.

33 Article in Civilisations, Vol. VI (1956), p.292.

34 Ritner (p.117) holds, ex cathedra, that the Africans own less than one thousandth of the total area of Angola; the present author would like to know the source of his information!

35 Anuario Angola 1959, p.124; the yearbook for Mozambique gives only the figures relative to concessions granted in the course of the current year, i.e., recapitulary figures for previous years are omitted.

36 Anuario Angola 1959, p.19.

37 The Times, September 22, 1955, p.9.

38 Duffy, p.307.

39 I.L.O. Records, VI, p.28.

40 H.N. Report, pp.103-104.

41 Hailey, p.650.

42 Hailey, p.674.

43 U.N. Report, p.69.

44 I.L.O. Report, p.99.

45 Ross, §§66, 69, 75, 77 and 82.

46 Hailey, pp.675-6.

47 U.N. Report, p.69.

CHAPTER IV

T H E P A T T E R N O F E C O N O M Y

The present chapter examines the economic fabric of the Portuguese Provinces of continental Africa. It will later serve as a frame of reference when we come to review, in Chapters V and VI, the general social conditions and, more specifically, the conditions of work under which the African inhabitants of the Provinces lead their lives. It does not set out to be either a study in economic geography or an exhaustive account of the economy of the territories concerned. For more detailed information the reader is referred to the excellent monographs available on this subject.[1] The intention here is to examine the economy of the Overseas Provinces from the standpoint of its general influence on the life of the African.

Part I

THE ECONOMIC BACKGROUND TO PROTUGUESE COLONIAL POLICY

§1. The Economic Role of the Colonies in the History of the Portuguese Empire

It must be recalled - as a simple historical fact - that the trading posts set up by the Portuguese along the African coast, and in Angola especially, played a decisive role in the development of Brazil as clearing stations for the export of slave labour. The first slaves are thought to have been shipped to America in or around the year 1517. In the years that followed suger-cane farming was introduced in Brazil by Portuguese Jews in exile there. By the end of the 16th century Brazil's booming

economy had begun to absorb large numbers of immigrants and to require an ever-increasing supply of labour. Angola became the great collecting and clearing station for slaves en route to America, and slave trade became a new and savage feature of African society, which, though doubtless already familiar with domestic bondage, had never itself practised slavery as a trade. A Portuguese historian has estimated that by the middle of the 17th century roughly 1,390,000 slaves had been shipped out of the territory.[2] By the end of the century some 60,000 slaves a year were being transported from Angola to Brazil at an average price of £30 a head. The close interdependence of the two colonies is evidenced by the fact that it was a Brazilian expeditionary corps that drove the Dutch out of Angola in 1648.[3] The year 1724 saw the foundation of the "Company of Africa and Brazil" endowed with a Royal Charter by which the Company was to "supply negroes in such numbers as the Portuguese planters shall require"; and right up to the early 19th century some 25,000-30,000 slaves were duly shipped each year.[4] In 1826, shortly after Brazil's secession, came the abolition of slavery on the African coast and the prohibition of slave traffic. For three centuries the lives and fortunes of Brazil and Angola had been inseparably entwined and the vast American colony had progressively drained the other of its human resources to further its own economic prosperity.

Since the 17th century, however, attempts had also been made to colonize those regions of Angola where the climate seemed more favourable. In 1682, Portuguese settlers attempted to strike root on the Bié plateau, but had to give up after some years of trial and effort. In 1765, the then Governor of Angola, Francisco de Sousa Coutinho, realized that the country could not live indefinitely from slave trade and that the process of depopulation caused by the Company of Africa and Brazil and its commercial pursuits would have to be stopped. He advocated the systematic occupation of the interior and the settling of immigrants on the plateaux. Oversea shipments of African labour were to be cut down and efforts made to establish a stable agri-

cultural economy. Following the line of this enlightened policy one of his successors to the governorship, Barao de Moçâmedes, had the south of Angola, from Benguela to the Cunene river, thoroughly explored to determine which areas were best suited for colonization. Neither of them succeeded, however, in transforming their ideas - all too revolutionary for their time - into concrete reality.[5] Following the abolition of slavery and Brazil's secession, the question of colonization was taken up afresh as a substitute source of prosperity in Angola. In 1848, Portuguese colonists from Brazil settled on the Huila plateau. However, little was to come of the many attempts at planned colonization that continued to be made right up to the end of the century, when, with the arrival of large private companies seeking to exploit the country's resources, a new phase opened in the economic history of Angola.[6]

The economic history of Mozambique has been quite different. Its origins go back to the prazo system introduced in the Zambezi Valley region about the middle of the 17th century.[7] This system was akin to the charter company system. There was, however, one major difference, namely that while, under the latter system, it was the company itself that undertook the exploration and conquest of the territory and was only relieved by the State when peace had been restored, under the prazo system the territory was first conquered and occupied by the Portuguese State which then granted sovereign rights to private individuals. The rights ceded were truly sovereign in the fullest sense: the prazeros were empowered to exercise unlimited authority over the thousands or even tens of thousands of acres allotted them and to levy taxes on all inhabitants. In spite of strong opposition the prazo system was finally abolished in the course of the 19th century; the last concessions expired towards the end of the century, and the land that had been conceded again became State property. With the end of the prazos, however, came the introduction of the charter company system in its most classic form. By a treaty concluded with Great Britain on January 11, 1891, Portugal undertook to link Rhodesia with the seaport at Beira

by a railway line. In order to meet this commitment - which was financially beyond its means - and at the same time to provide foreign capital with an interest in the development of the territory, the Portuguese Government engineered the creation of the Mozambique Company, most of whose capital was subscribed by the Société générale de Belgique and the Banque de Paris et des Pays-Bas.[8] Under its basic charter of February 11, 1891, the Mozambique Company assumed responsibility for the construction of the railway from Beira to Rhodesia. In return it was given sovereign rights over the territory that today forms the Districts of Manica and Sofala and represents 6.5% of the area and 4% of the population of Mozambique. Trade, agriculture, industry, mines, postal services, communications - all, including the right to levy taxes and issue currency, became the monopoly of the Mozambique Company. The concession was to run for 50 years, and one-tenth of the shares and 2.5% of the total net profits were to go to the Portuguese Government. The Mozambique Company built not only the Beira railway, but also the Zambesi and Nyasaland railways. Most of the large plantations to be found today in the Manica and Sofala Districts are still run by its subsidiaries. These two Districts have developed much more rapidly than the rest of the territory: when the concession finally expired their combined income amounted to over 10% of that of the whole Province. The 1890s also saw the foundation of two other charter companies: the Niassa Company, with exclusively British capital and a 35-year concession in the Cabo Delgado and Niassa Districts; and the Zambezia Company, financed by British, German, French and Portuguese capital and authorized to exploit vast areas of fertile land in the Quelimane and Tete regions without, however, enjoying sovereign rights.[9] These two companies have been largely responsible for the development of sugar-cane, copra and sisal farming in Mozambique. It must also be mentioned that the rapid growth of the Boer Republic of the Transvaal proved of great benefit to the port of Lourenço Marqués, whose position made it the Republic's natural sea outlet: during the second half of the 19th century the town underwent considerable development as a result.

Though brief, this historical survey shows that the Colonies of Angola and Mozambique have both played a substantial role in the economy of the Portuguese Empire. It is true that the attempts at direct colonization by individual settlers and their families went largely unrewarded; nonetheless, Angola has supplied Brazil with the manpower necessary to its development, while in Mozambique the prazeros and charter companies that have promoted the development of the territory relieved the Government of all the risks inherent in such an undertaking.

§2. Present-day Trends in the Economic Policy of the Portuguese Government in the Overseas Provinces

Dr. Salazar himself has on several occasions defined the basic principles governing the economic policy of the Estado Novo towards its Overseas Territories. The speech he delivered at the inaugural session of the first Empire Conference on June 13, 1933, contained the following:[10]

> It is our wish, by developing productions and the exchange of raw materials, foodstuffs and manufactured products among the various parts (of the Empire), to progress towards the greatest possible measure of economic unity.

On June 8, 1936, at the opening session of the first Economic Conference of the Empire, he pointed to the three major and essentially complementary principles underlying that policy: the community of interests of the Metropolitan Territory and the Colonies; adaption of the economic organization of each Province to its level of development; and the right of the Metropolitan Territory to give priority to the interests of the Empire as a whole. Having stressed the difficulties caused by the rapid increase in the metropolitan population, he went on to say that the

Colonies should open their doors to Portuguese immigrants and help promote the development of the metropolitan industries by providing them with raw materials and purchasing their products.[11] A good deal more recently, in his speech to the National Assembly on June 30, 1961, Dr. Salazar pointed to the primacy of Portuguese interests in the Provinces by stating:[12]

> The main problem remains: it arises from the permanent settlement of the white population and the fact that it controls almost exclusively the direction of work, the financing of undertakings and the administration of the common weal (emphases added).

We shall now examine how and how far these principles find expression in the institutions of the Portuguese Republic.

As has already been pointed out, it was primarily for financial reasons that the New State discontinued, as from 1926, the attempts at colonial decentralization undertaken by previous governments. At a time when the Government was determined to enforce austerity measures, to contract no outside loans and to pay off the floating debt as quickly as possible, it could hardly allow the Colonies to go on wallowing in the financial chaos that had been a feature of their existence since the first days of the Republic. The Colonial Act of 1930 consequently marked a return to the old tradition of centralized administration: the finances of the Overseas Territories were placed under the strict control of the central authorities, and since 1935 the Colonies' budgets have almost always been balanced.

Since the recasting of the Constitution in 1951, the provisions of the Colonial Act concerning the economic and financial organization of the Overseas Provinces have been embodied in Chapters V (Articles 158 to 164) and VI (Articles 165 to 175) of Section VII of the Constitution. They extend and elaborate the following basic principle:

> Article 158.- The economic organization of Overseas Portugal shall form part of the general economic organization of the Portuguese Nation and shall thereby take its place in the world economy (empasis added).

That this integration of the Overseas Provinces is accompanied by a certain measure of differenciation in financial and administrative matters has already been seen. Under Articles 165 and 166 the Provinces are to have collective personality in Public Law, with their own assets and liabitlies and freedom to dispose of their property and revenue. Article 168 states that each Province is to have its own budget as voted by its own competent bodies. The Provinces may not, however, contract loans in foreign countries (Article 173), and their financial autonomy may be curtailed in the event of a serious situation arising in connection with their finances (Article 175).

The principles governing the economic integration of the Provinces with the Metropolitan Territory are outlined in the following terms:

> Article 159.- The economic systems of the Overseas Provinces shall be established in harmony with the needs of their development and the well-being of their population, with fair reciprocity between them and the neighbouring countries, and with the rights and legitimate advantages of the Portuguese Nation, of which they are an integral part.
>
> Article 160.- Without prejudice to the decentralization prescribed by Article 148, it is for Metropolitan Portugal to secure, through measures taken by the competent bodies, a proper balance in the interests which, under the previous Article, should be considered as a whole in the economic systems of the Overseas Territories.

It is thus the Metropolitan Territory that arranges the various interests to be satisfied in order of priority; by this means it

is assured of control over the economy of the provinces.

Chapter VIII of the Organic Law of June 27, 1953, relates to the "Economic and Social Order in the Overseas Provinces". The underlying principles are set out inDivision LXX, which consists of two paragraphs. According to the first:

> The economic and social life of the Overseas Provinces shall be regulated and co-ordinated primarily in accordance with the purposes stated...(reference to the Constitution) and, in particular, with the following considerations:...

Five "considerations" are then listed; only the first two are quoted here in full:

> a) The systematic utilization of the territory's existing and potential natural resources;
> b) The settlement of the territory, including immigration schemes for families of Portuguese nationals, the regulation of the migration of workers and the regulation and protection of emigration and immigration.

There then follow: c) the spiritual and material advancement of the population, d) the possible nationalization of certain activities and e) the exercise of social justice.

The second paragraph is more or less a word-for-word reiteration of Article 160 of the Constitution.

The legislative reforms of 1961 marked a further step forward along the road to integration. A Legislative Decree of November 8, 1961, laid down the rules for the progressive transformation of the Metropolitan and Overseas Territories into an economic, commercial and monetary whole within a period of ten years. The basic principle is set out as follows:[13]

> Article I.- 1) Within a period of ten years, beginning on January 1, 1962, all impediments on the free circulation of goods of national origin among the various national territories will be abolished. By "national territories" is meant the portions of Portuguse territory endowed with customs autonomy.
>
> Article III.- 1) The Government...will take steps and will adopt suitable plans for the balanced, swifter economic development of the various national territories, paying attention to those regions which are less developed economically.
>
> Article IV.- 1) By December 31, 1971, all customs duties levied in trade among national territories on goods of national origin will be suppressed, so long as their transportation by sea or air is done in national ships or planes, excepting only such cases where circumstances make it impossible to satisfy this latter requirement.

The provisions contained in Articles XXXV to XXXVII are of particular importance. They confirm rules already in force, namely that all foreign currency income deriving from exports will be paid into the Bank of Portugal "in its capacity as the central bank of the escudo area". The Bank then credits the Province with the equivalent amount in national currecny.

Dr. José Corrêa de Oliveira, Minister of State attached to the Prime Minister's Department and principle author of the bill, stated in his preamble to the text that it marked "a decisive step towards the economic integration of the country", that it was in keeping with "the letter and the spirit of the Portuguese Constitution which declares that the aim is the economic integration of the nation", and that the fusion of the individual markets should fit into "an overall policy sufficient to guarantee the atteinment of the supreme interests of the area as a whole".

Mention must also be made of another feature of the Portuguese economy, complementary to the principle of integration outlined above. At the same time as it aspires to unity, the economic complex formed by the Metropolitan and Overseas Territories also tends to shut itself off from the outside world. This concern for autarky finds expression in the mistrust shown by the Portuguese Government towards international organizations with competence in economic matters. In September 1956, shortly after having become a member of the United Nations, Portugal declined an invitation to contribute to the special Fund for economic development which the General Assembly recommended be set up. In April 1958, when the General Assembly finally decided to establish the Fund, Portugal stuck by its refusal.[14] On the list of member States contributing to the various international aid and assistance bodies for the year 1958/59 Portugal ranks bottom among the European nations with a token contribution of $100,000 - far less than any other.[15] In the report on the Extended Technical Assistance Programme for 1960, which was submitted to the Economic and Social Council in June 1961, Portugal is barely mentioned.[16]

Any overall assessement of the principles underlying Portuguese colonial policy in the economic sphere is necessarily governed by the fact that Metropolitan Portugal is itself a poorly-developed country. The national income - estimated at 54,800,000 contos in 1959 - amounts to roughly $200 per head of population, which is the lowest per capita income to be found in Europe.[17] Approximately 50% of the active population is employed in agriculture but accounts for only 27% of the Gross National Product. As to industry, the average factory worker earns something in the region of 26 escudos per day.[18] The economic growth rate, which was 4.4% per annum from 1952 to 1957, fell to 3.5% between 1958 and 1960: the average rate for the O.E.E.C. countries was 6% per annum.[19] The population growth rate is high; as long ago as 1936 Dr. Salazar was already pointing to emigration as the traditional safetyvalve to ease the rising pressure of the population and stated that, according to estimates, no fewer than one million Portuguese had emigrated to Brazil over

the last five years. The number of Portuguese that have sailed for Brazil since the arrival of the Estado Novo has been placed at roughly 600,000. The Metropolitan Territory's exports to foreign countries are confined to a few materials (cork, wolfram) and a limited range of manufactured products (preserved fish, wines). The Overseas Territories appear, therefore, to play a decisive role in the Portuguese economy: they absorb part of the excess population burdening the Metropolitan Territory, supply the latter with the foreign currency necessary for stabilizing its trade balance and provide a protected market for its manufactured products.

As regards the aims of Portuguese policy, the primary objective is that the Overseas Provinces shall not become an economic burden to the Metropolitan Territory. Financial autonomy is therefore the golden rule - at least in the sense that each Territory must meet its financial requirements out of its own resources and expect no financial hand-out from Lisbon. The second objective is that the Portuguese shall be of positive economc benefit to the Metropolitan Territory. It was formerly current practice to distinguish between "colonies for settlement" and "colonies for exploitation": the Overseas Provinces are called upon to fill both roles. Hence the formal inclusion of those two basic aims in the Organic Law: "the systematic utilization of the existing and potential natural resources" and "the settlement of the territory."

As regards the means employed, the process of integration officially quoted as the keystone of Portuguese policy, is, in fact, a "one-way-only" process; it would be more accurate to speak of an alignment between the economy of the Provinces and the interests of Metropolitan Portugal, with the controls squarely in the hands of the Central Government. The economic zone over which the Portuguese State aims to wield complete sovereignty will be closed to the various international organizations; there will be no hesitation, however, in opening the gates to large private companies willing to invest foreign capital. In the preface to a work published in 1931 Professor Bern-

hard Lavergne wrote: "Portuguese legislation continues to apply the principal clauses of what is known in history as the pacte colonial".[20] This remark is no less true today under a system where the Colonies - whether they are called "Provinces" or what you will - are regarded simply as a source of raw materials and foreign currency. The characteristic features of the pacte colonial are all present, even down to the classic "national flag clause", which, as has been seen, is given prominent place in Article IV of the Decree of November 8, 1961. What is surprising is that the Minister who drafted the text consciously describes it as opening the path of progress to the Overseas Provinces.

The economic life of the Overseas Provinces must now be examined in more specific detail. The aims pursued by the Portuguese Government will themselves be taken as a frame of reference. First, therefore, a short study will be made of the methods of financial organization by which the Metropolitan Territory frees itself of all possible encumbrance (Part II); this will be followed by a review of the positive benefits which Metropolitan Portugal demands of its Provinces in terms (to quote the Organic Law) "the systematic utilization of their resources" and "the settlement of the territories" (Parts III and IV). In conclusion a study will be made of the future prospects of the Overseas Provinces in the light of the latest development plans (Part V).

Part II

THE FINANCIAL ORGANIZATION OF THE OVERSEAS PROVINCES

In his excellent study entitled Les Chances économiques de la Communauté franco-africaine, published in 1957, Professor Pierre Moussa made a detailed estimate of the financial cost to France of administering her Overseas Territories under the conditions prevailing at that time.[21] In 1955 Government investments totalled 178,000 million francs (pp. 124 - 127). Civil

expenditures in connection with the running of certain general public services, the salaries of higher-grade public servants (administrators and magistrates) and the contribution out of the metropolitan budget towards the salaries of certain grades of civil servants - all of which fell to the charge of Metropolitan France - amounted to a further sum of approximately 30,000 million francs (pp. 128 - 131). On top of this came military expenditures; these were covered entirely by the metropolitan budget - irrespective of their destination - and, in 1954, totalled some 140,000 million francs (pp. 130 - 131). The author concludes: "In all, the Overseas Territories absorb 360,000 million francs of the public finances or Metropolitan France - or 9% of the budget. One can say, therefore, that grosso modo 9% of the taxes paid by French taxpayers are levied for purposes of overseas expenditure." (p.132) The author goes on to compare the respective efforts made by the major Powers to assist the underdeveloped countries by means of biliteral public investments. For present purposes, reference is confined here to the amount of public investment undertaken by France, the United Kingdom and Belgium in the Overseas Territories for which they were then responsible: the average annual sums invested by the three countries at that time amounted to $500 million, $130 million and $100 million respectively (pp. 204 - 207).

Portugal has assumed no such obligations, and ever since the State's finances were put back in order by Dr. Salazar in the early years of the new regime, the rule has been that the Overseas Provinces cover their expenditure out of their own resources. The system that has come to govern the finances of the Overseas Territories rests on three major principles.

Principle No.1: The provinces' budgets must be balanced.

As already seen, the Constitution provides that each Province shall have its own separate budget approved by its own provincial bodies (Article 168). This budgetary freedom, however, is subject to strict control. Article 168 itself goes on

to stipulate in paragraph 1 that the budget of each Province "shall include only such revenue and expenditure as is authorized by legal enactments". Article 169 adds that the National Assembly shall fix by legislation "the expenditure and revenue which belong to the Overseas Provinces, separately or in common, as well as those pertaining to Metropolitan Portugal" and also "the rules of control or superintendence to which the Governments of the Overseas Provinces shall be subject by way of safeguard for their finances". Moreover, the Provinces are forbidden to contract foreign loans (Article 173) and their financial autonomy may undergo even greater restriction should a serious situation arise in connection with their finances (Article 175).

It is not surprising, therefore, that the budgets of the Provinces are all cut to a common pattern and have their individual items listed, grouped and headed in the same order and the same terms - namely those that have been imposed upon them. It is even less surprising to find that their budgets not only balance out but always show a surplus: the central authorities have no wish to see a deficit.

This situation is borne out by Table I (opposite): at the end of 1960 Guinea, Mozambique and Angola all registered handsome surpluses. Table II illustrates the perennial nature of this achievement.

Principle No.2. The bulk of the revenue must be raised from local resources.

As will have been seen from Table I, each Province distinguishes between "ordinary" and "extraordinary" revenues and expenditures. Extraordinary expenditures concern investments provided for under the various development plans; these will be examined in Part V of the present chapter. Extraordinary revenues are not, as might be thought, income in the form of subsidies from Metropolitan Portugal: the Metropolitan Territory makes no free contribution to any provincial budget, not even to

finance the development projects; the very most it does is to furnish returnable loans. These extraordinary revenues derive from reserves and surpluses from previous budgets, the funds of certain marketing boards, special dues and taxes, and loans.

Table III lists the various items of ordinary revenue for Angola in 1959. The professional, supplementary, urban land and company income tax represent the various forms of direct taxation on the non-indigenous population. The "personal tax" has already been mentioned; it is levied on all male Africans between 16 and 60 years of age. When one remembers that the indirect tax burden (import and export duties) is distributed over the whole population, one is immediately struck by the proportion of the total tax revenue derived from the African inhabitants.

Tables IV and V confirm this impression. The first shows the total annual amount of personal tax levied in Angola between 1956 and 1959. The second compares the personal-tax revenue, the direct-tax revenue and the overall ordinary revenue in each of the three Provinces for the year 1957 (the latest for which complete information is available). In Guinea the personal tax accounts for almost 20% of the overall ordinary revenue. In Angola and Mozambique the head-tax amounts to roughly one half of the total direct taxes paid by the non-indigenous inhabitants. It must also be remembered that this already heavy burden borne by the Africans - who form the vast majority of the population - is, indirectly, increased still further by the impact of the various import and export duties on salaries and prices.

The pattern of tax revenue in Mozambique requires special mention. First, the statistical yearbooks relating to the Province provide a wealth of detail on certain taxes, such as the land tax, customs duties, stamp duty, etc., but are extremely uninformative as regards the native head-tax, which they incorporate en bloc with the direct-tax revenue. Consequently, the latest figure available for the head-tax is that given in the 1957 edition of the Statistical Yearbook for the Overseas Provinces.

TABLE I

PROVINCIAL BUDGETS FOR 1960

(In contos)

	Guinea	Angola	Mozambique
Revenue (total)	141,071	2,730,797	4,774,234
Ordinary Revenue	112,705	1,966,934	4,032,962
Direct taxes	32,604	378,988	426,932
Indirect "	29,004	541,446	647,549
Extraordinary Revenue	28,366	763,863	741,272
Expenditure (total)	141,003	2,633,007	4,628,491
Ordinary Expenditure	112,393	1,868,785	3,875,672
Extraordinary "	28,610	764,222	752,819
Balance	68	97,790	145,743

Source: Anuario estatistico -1960-p.345

TABLE II

ANGOLA

Annual Revenues and Expenditures since 1956

(In contos)

	Revenue	Expenditure	Balance
1956	3,124,645	2,579,774	544,871
1957	2,530,075	2,247,810	282,265
1958	2,469,565	2,227,787	241,778
1959	2,589,209	2,425,058	164,151

Source: Anuario Angola - 1959 - p.275.

TABLE III

A N G O L A

Principal Revenue Items

1959 Financial Year

Total Revenue	2,589,209	
Ordinary Revenue	1,851,996	
Company Income tax		87,533
Professional tax		25,633
Supplementary tax		74,141
Urban land tax		19,736
Import duties		311,418
Export "		191,301
Personal tax		120,464
Extraordinary Revenue	737,213	

Source: Anuario Angola - 1959 - p.276

TABLE IV

A N G O L A

Total of Personal Tax

Compared with Overall Revenue (1956 - 1959)

(In contos)

	Total Revenue	Personal Tax
1956	3,124,645	111,257
1957	2,530,075	115,097
1958	2,469,565	116,863
1959	2,589,209	120,464

Source: Anuario Angola - 1959 - p.275 and 276

TABLE V

PROVINCIAL BUDGETS FOR 1957

Revenue (in contos)

	Guinea	Angola	Mozambique
Total ordinary revenue	127,131	1,697,056	2,986,438
Total direct taxation	36,280	348,647	344,239
Special tax levied on natives	21,130	115,097	140,058

Source: Anuario Ultramar - 1957 - pp.216-218

The second point is that Mozambique owes a good part of its income to the economic life and activities of its neighbours. The Transvaal and both the Rhodesias have their natural sea outlets in Mozambique and their ores are shipped to the rest of the world from the ports of Beira and Lourenço Marqués. Moreover, the South African mining industry employs a substantial proportion of Mozambique's labour resources. Its strategic geographical position and the progressive industrial development of its immediate neighbours have come to constitute a staple source of income for the Province. The use the Provincial Government makes of this privilege in the balancing of its accounts will be examined later. Of more immediate relevance is the use it makes of it to balance its budget. Table V shows that Mozambique's ordinary revenue totals some 3 million contos. In 1959, customs revenue amounted to 620,146 contos - most of which was levied on goods either going to or coming from South Africa and the Rhodesias via Beira and Lourenço Marqués. These same goods had also to cross Mozambique by rail, and in Mozambique the railways are run by the Government. Result: the net profit deriving from the combined rail and port operations, and included in the budget revenue, amounted to 337,634 contos. Finally, again in 1959, 66,139 contos went into the budget in the form of various dues payable on contracts for the hire of local labour by South African employers.[22] Thus in one year the mere fact of its geographical position provided Mozambique with over one million contos - approximately one third of its ordinary revenue.

Principle No.3: Expenditure must be fully covered by the provincial budget.

Table VI shows the eleven headings under which the Provinces' ordinary expenditures are grouped and the respective funds voted in each of the three Provinces for the 1960 financial year. Table VII refers to Angola's 1957 budget (the latest on which information is available) and gives a detailed breakdown of Items 4 (General Administration and Control) and 7 (Development). It is noticeable that those items, which, in French-administrated

territories, are classed as "sovereignty expenditures" and are therefore covered by the metropolitan budget (e.g., expenditure in connection with provicincial government, national representation, civil administration, and higher-grade officials and public servants), are here charged to the Province's own budget. Even more uncostumary - and contrary to that found in practically every other dependent territory - is the practice of including army and navy expenditures in the Province's own budget. In 1959, before the disturbances began, the total strenght of the military forces stationed in Angola was 908 Europeans, 7,559 Africans, and a thousand-odd officers and NCOs. The funds voted for their supply and maintenance are between four and five times greater than those allocated to education.[23]

The Provinces have to cover not only their own expenditures, but also those incurred by the central organs of the Overseas Administration. The Council for the Overseas, the General Overseas Agency, the Lisbon Institute of Tropical Medicine and other institutions under the aegis of the Minister for Overseas Portugal are financed entirely by contributions from the Provinces. In 1957 these contributions totalled 28,317 contos.[24] In addition, the Provinces contributed over one half of the funds required to run the various bodies that regulate and co-ordinate trade, such as the cotton, cereal and coffee Export Boards.

In view of the fact that the revenues required to meet these commitments weigh heavily on the meagre incomes of the African inhabitants, the cost of administering Portugals' Overseas Provinces would seem to be largely "the black man's burden".

TABLE VI

PROVINCIAL BUDGETS FOR 1960

Expenditures

(In contos)

	Guinea	Angola	Mozambique
Expenditures	141,003	2,633,007	4,628,491
Ordinary Expenditure -	112,393	1,868,785	3,875,672
1. Provincial debt	9,979	55,924	100,903
2. Provincial Government and national representation	726	7,012	10,000
3. Pensions, superannuation, etc.	4,526	40,191	43,641
4. General administration and control	31,136	307,409	456,235
5. Finances	5,776	68,650	68,184
6. Justice	534	23,996	19,540
7. Development	21,927	697,307	2,400,008
8. Army	8,480	203,119	247,666
9. Navy	2,955	12,746	63,773
10. General expenses	25,996	442,722	460,553
11. Previous budgets	358	9,709	5,169
Extraordinary Expenditure	28,610	764,222	752,819

Source: Anuario estatistico - I960 - p.345

TABLE VII

A N G O L A

Budget for 1957 (Expenditures)

Principal Items

(In contos)

4. General Administration and Control	Total:	230,146
Civil administration		38,582
Public education		43,959
National press		11,083
Health and sanitation		82,222
Public safety		15,760
Catholic missions		31,697
7. Development	Total	578,332
Public works		135,474
Postal services and telecommunications		109,416
Docks, railways and transport		212,284
Agriculture		25,037
Stock-farming		15,502

Source: Anuario Ultramar - 1957 - p.210

Part III

UTILIZATION OF THE TERRITORIES' RESOURCES

We now come to the first objective of the Government's economic policy in the Overseas Provinces as enshrined in the Organic Law of 1953: the utilization of the territories' resources.

Metropolitan Portugal has, we know, few natural resources. Its agriculture and industry have undergone little development. Its exports are limited to a narrow range of raw materials and food products. Yet, on December 31, 1960, the Bank of Portugal's gold and foreign currency reserves stood as follows:[25]

Reserves	(Contos)
Gold (minted and unminted)	8,648,709
Foreign currency assets	5,286,931
Other Securities	
Various assets in gold and foreign currencies	6,708,635
Total	20,644,275

In view of the fact that the annual Gross National Product is approximately 55 million contos, this abundance of available assets may seem surprising. It would further seem to hint at the substantial part played by the external trade of the Overseas Provinces in the economy of Metropolitan Portugal.

§1. The External Trade of the Overseas Provinces

I.- The Overall Balance of Payments Situation.

Tables VIII and IX (opposite) have been taken from a survey of the economic situation of Portugal and her Overseas Provinces made in 1961 by the Institut national de statistique et d'études économiques (I.N.S.E.E.) in Paris. They demonstrate that:

1. The Metropolitan Territory's balance of payments with the rest of the world shows a constant deficit; total exports covered no more than approximately 62% of total imports during the period under review;

2. The balance of payments of the Overseas Provinces with third countries is structurally sound and shows a substantial surplus;

3. The escudo area as a whole finally shows a credit balance, the Metropolitan Territory's external trade deficit being compensated for by "capital transactions" (particularly in the form of transfers by Portuguese emigrants abroad - under the heading "Private Donations") and, more especially, by the surplus in the balance of payments of the Overseas Provinces.

It will be noted that in the Provinces' balance of payments with third countries (Table IX) a substantial surplus is entered under "Services". This accrues largely from the transfer of salaries in respect of the workers employed in South Africa and from the income earned by the Benguela railway. These "invisible exports" will be examined separately in a later paragraph. For the moment our attention will be confined to commodity trading. It must be borne in mind, however, that both Angola and Mozambique have shown a debit trade balance during recent years and that the deficit has been largely made up by these invisible exports.

TABLE VIII

OVERALL BALANCE OF PAYMENTS OF THE ESCUDO AREA WITH THE REST OF THE WORLD

(In millions of escudos)

	1955	1956	1957	1958	1959
I.-Current Payments:					
-Metropolitan Portugal:					
Exports f.o.b.....	+6,222	+ 6,641	+ 6,271	+ 6,095	+ 6,030
Imports f.o.b.....	-8,952	-10,176	-11,349	-10,599	-10,515
Carriage and insurance.....	- 271	- 293	- 581	- 468	- 392
Investment income (net).....	+ 83	+ 45	+ 87	+ 47	+ 52
Miscellaneous.....	+ 259	+ 710	+ 930	+ 1,180	+ 784
Balance.....	-2,658	- 3,073	- 4,642	- 3,745	- 4,061
-Overseas Provinces:					
Exports f.o.b.....	+3,642	+ 4,064	+ 4,293	+ 4,843	+ 4,625
Imports c.i.f.....	-2,346	- 2,566	- 2,872	- 2,915	- 2,552
Services (net).....	+ 660	+ 800	+ 821	+ 1,034	+ 734
Balance.....	+1,956	+ 2,298	+ 2,242	+ 2,962	+ 2,807
Overall balance of current payments.....	- 702	- 775	- 2,400	- 783	- 1,254
II.- Capital Transactions:					
Private donations.....	+ 582	+ 879	+ 1,401	+ 1,421	+ 1,638
Private capital.....	+ 614	+ 421	+ 605	+ 10	+ 164
Public donations.....	+ 21	+ 107	-	-	-
Public capital.....	- 623	- 806	+ 175	- 833	- 413
Balance.....	+ 594	+ 601	+ 2,181	+ 598	+ 1,389
III.-Errors and omissions.....	+ 108	+ 174	+ 219	+ 185	- 135

Source: I.N.S.E.E. Survey - p.6.

TABLE IX

CURRENT TRANSACTIONS OF THE OVERSEAS PROVINCES WITH METROPOLITAN PORTUGAL AND THIRD COUNTRIES

(in millions of escudos)

	1955	1956	1957	1958	1959
With Metropolitan Portugal:					
Imports	-1,970	-2,125	-2,172	-2,278	-2,414
Exports	+1,571	+1,516	+1,689	+2,035	+1,939
Balance	- 399	- 609	- 483	- 243	- 475
With Third Countries:					
Imports c.i.f.	-2,346	-2,566	-2,872	-2,195	-2,552
Exports f.o.b.	+3,642	+4,664	+4,293	+4,845	+4,625
Services (net)	+ 660	+ 800	+ 821	+1,034	+ 734
Balance	+1,956	+2,298	+2,242	+2,962	+2,807
Overall balance of current transactions of the overseas provinces with Metropolitan Portugal and third countries	+1,557	+1,689	+1,759	+2,619	+2,332

Source I.N.S.E.E. Survey - p.7.

Another point to be noted is that the Overseas Provinces' trade balance with the Metropolitan Territory invariably shows a deficit (see Table IX); for European Portugal the Provinces form a protected market in which it sells more than it buys. It is more profitable for the Metropolitan Territory to have the Provinces sell their products in hard currency countries. Table XI shows that, though almost half of Angola's imports derive from Metropolitan Portugal, over 70% of its exports are shipped to non-Portuguese countries, including 19.1% to the dollar area and 15% to the sterling area.

The conclusion to be drawn from this albeit brief summary is that the Overseas Provinces occupy a key position in the economy of the escudo area. The I.N.S.E.E.'s survey brings out the special importance of Angola, whose exports account for roughly 50% of the total trade carried on by the Overseas Provinces with Metropolitan Portugal and the rest of the world. It shows that if Angola seceded the Metropolitan Territory would be deprived of a substantial part of its raw material and basic foodstuff supplies, while the escudo area would no longer enjoy the foreign currency surplus deriving from the Province's exports. The survey concludes:[26]

> Angola's contribution to the economy of both Metropolitan Portugal and the escudo area as a whole would seem of capital importance, and any secession by Angola would place the Portuguese economy in an extremely difficult situation.

TABLE X

A N G O L A

External Trade (1957-1960)

(In contos)

	1957	1958	1959	1960
Imports	3,535,578	3,728,207	3,767,864	3,669,610
Exports	3,362,763	3,688,516	3,587,418	3,565,492

Source: Anuario estatistico -1960-p.335

Anuario Angola - 1959 - p.132

TABLE XI

ANGOLA AND MOZAMBIQUE

External Trade in 1960

	Angola	Mozambique
Imports		
Total (in contos):	3,669,610	3,646,257
	(per cent)	
from Metropolitan Portugal	46,7	26,6
from Overseas Portugal	2.5	5.3
from foreign countries	50.6	66.0
Exports		
Total (in contos):	3,565,492	2,099,250
	(per cent)	
to Metropolitan Portugal	24,2	48,0
to Overseas Portugal	4,3	3,2
to foreign countries	70.5	48,6
(United States	19,1	5.8
(Sterling area	15.0	24.0

Source: Anuario estatistico - 1960 - p.335.

II. The Pattern of Trade.

Tables XII and XIII (opposite) list the major import and export items for Angola and Mozambique during 1960. To complete the picture, the distribution of the principal exports from Angola is shown in Table XIV.

The trade pattern revealed by these tables is that of a colonial economy of the classic type. Its salient features may be listed as follows:

1. As with all colonial territories, both Provinces are essentially exporters of raw materials and importers of finished products. With the exception of vegetable oils and fish meal, none of the home-produced commodities undergoes any form of processing other than the most elementary. Sugar is exported raw; the only refineries are in Metropolitan Portugal. Mozambique's abundant copra is likewise processed in Europe.

2. The Provinces' cotton trade is a particularly striking case. In 1960, Angola and Mozambique exported 8,794 tons and 44,406 tons, respectively, of raw cotton, almost all of which went to Metropolitan Portugal. Yet cotton goods head the list of the Provinces' imports, and these derive almost entirely from Metropolitan Portugal. Neither Province has even the beginnings of a textile industry that could absorb part of its own cotton crop. The Portuguese textile industry profits twice over; the Overseas Territories not only provide an abundant source of raw material at Government-fixed prices payable in the national currency, but also assures it of a sizable market for its finished products.

3. The table of imports deserves close attention. At the top of the list - for both Angola and Mozambique - come cotton goods, followed by wines and spirits, the latter again deriving from the Metropolitan Territory. That the Portuguese wine industry is bent on expanding its markets is understandable. How such enormous imports benefit the economy of such underdeveloped countries as the Overseas Provinces is a good deal less so,

TABLE XII

IMPORTS
(1960)

Principal Commodities Imported

(In contos)

	Angola	Mozambique
Total Value of Imports	3,669,610	3,646,257
Steel and rolled iron	91,861	145,956
Non-ferrous metals	13,519	10,828
Cotton goods	276,384	361,023
Wines and spirits	411,436	218,836
Industrial equipment and machinery	168,873	179,207
Agricultural and workshop tools	22,449	22,559
Trucks	163,201	99,969
Passenger vehicles	93,665	130,389

Source: Anuario estatistico - 1960 - p.336 et seq.

TABLE XIII

EXPORTS

(1960)

Principal Commodities Exported

Commodity	Angola		Mozambique	
	Tonnage	Value in Contos	Tonnage	Value in Contos
Raw Materials				
-of Vegetable Origin	8,894	146,376	44,406	681,535
Cotton (raw)	8,894	146,376	44,406	681,535
Sisal	57,941	375,479	25,903	167,941
Timber	91,531	97,642		
Non-edible vegetable oils	17,414	106,044	2,861	21,042
Oil seeds and fruits	14,461	52,269	105,970 (1)	412,667 (1)
-of Mineral Origin				
Ores	580,490	176,429	9,536	35,464
Diamonds	934,000 carats	496,168 carats		
Foodstuffs				
Farinaceous				
Maize	117,106	164,945		
Manioc	58,421	77,637		
Fish				
Dried fish	13,165	73,251		
Fish meal	45,085	108,341		
Miscellaneous				
Tea			8,066	176,420
Raw sugar	37,374	93,704	111,249	278,239
Coffee	87,217	1,263,964		
Total value of exports		3,565,492		2,099.250

(1) includes:

Cashew-nuts: 55,848 tons-- 199,915 contos.
Copra: 40,753 tons - 194,333 contos.

Source: Anuario estatistico -1960-pp.340-341.

TABLE XIV

A N G O L A

Distribution of Principal Export Trade (1959)

(In tons)

Commodity	Total Tonnage Exported	Metro-politan Portugal	United Kingdom	United States	Nether-lands	Federal Republic of Germany
Sugar	29,872	26,766				
Cotton	6,356	6,356				
Coffee	88,999	9,710		53,099	18,277	
Maize	149,184	37,609	22,449		12,703	23,249
Sisal	53,539	13,186		4,547	2,143	4,769
Fish meal	51,228			10,532	7,190	
Diamonds	1,025,796 carats		1,025,796 carats			

Source: Anuario Angola - 1959 - pp.154-165.

especially when one compares their total value with that of the meagre imports of finished and semi-finished products such as steel and rolled iron non-ferrous metals and agricultural and workshop equipment - all of which are essential factors of economic development. Similarly, we find private cars - of more interest to a privileged minority than to the underfed mass of the African population - a prominent feature of Mozambique's imports.

4. The table of exports shows that Angola and Mozambique differ appreciably in the matter of their markets. Mozambique's exports consist for the most part of a narrow range of tropical products required by the metropolitan industries: cotton, sisal, oil seeds and fruits, and raw sugar. While Angola likewise supplies Metropolitan Portugal with a number of tropical products, most of its exports are directed towards the dollar and sterling areas; in terms of value, coffee (most of it sold to the United States) and diamonds (sold entirely on the British market) account for over 50% of the Province's total exports.

To sum up, the pattern of trade and the overall structure of the balance of payments both show that in the Overseas Provinces of Africa production is governed a good deal more by the interests of the Metropolitan Territory than by those of the local inhabitants. The Provinces are required to supply the metropolitan population with tropical produce, to provide its industries with raw materials and to feed the escudo area with strong-currency funds; at the same time they offer a vast protected market for Portuguese industry and agriculture. These are typical features of the pacte colonial. In the terms of the Organic Law, the situation is indeed one of "systematic utilization of the territories' resources".

§2. Factors of Production

As has already been said, this chapter is not intended to be an essay on economic geography or an exhaustive sector-by-sector list of the economic resources of the Provinces of mainland Africa. Examination will be confined to the more general features of production.

I.- The basic feature is the insignificance of the secondary in comparison with the primary sector. In both Angola and Mozambique - not to mention Guinea - the manufacturing industry has an extremely low output (see Table XV). Overall output figures for the sugar and processed fish industries are not much above the export figures. In Angola the only industry with appreciable sales on the home market is the cement industry. Of the various extractive industries, which come under the primary sector, one and one alone is of essential importance not only for Angola's economy but for the entire escudo area: namely the diamond-industry, in which all prospection and mining is the exclusive monopoly of the Companhia de Diamantes de Angola. This sector will be examined in closer detail when we come to study the role played by the large private companies operating in the Overseas Provinces. In Mozambique a Belgian-financed company works a number collieries in the Tete region; annual output is around 250,000 tons, i.e., not very much. A number of copper, iron and manganese mines and a few oil-wells are also worked in Angola.[27] These more or less complete the list of mining activities in the Provinces of mainland Africa. The vast, untapped riches, the fabolous deposits of gold, copper, cobalt and tin referred to by certain authors would seem to have been largely invented; there is certainly no concrete evidence to prove their existence.[28] These dreams apart and with the exception of the diamondindustry, the economic activity of the African Provinces centres almost exclusively on agriculture.

TABLE XV

INDUSTRIAL PRODUCTION
(1960)

(In tons)

	Angola	Mozambique
Dried fish	23,000	
Sugar	67,539	165,041
Beer	9,935	7,885
Vegetable fibre sacks	4,249	
Fish meal	44,408	
Soap	7,106	
Cement	161,148	

Source: Anuario estatistico - 1960 - p.333

II.- Table XVI shows output trends in certain agricultural sectors in Angola and Mozambique between 1937 and 1957. The jump in ouput during those twenty years has been phenomenal. It would be interesting, however, to know whom this development has really benefited: the ten million Africans inhabiting the territories or a small number of European settlers? Unfortunately, Portuguese statistics provide little information regarding the pattern of agricultural production and the distribution of income among the various social groupings. Information is particularly scant with regard to the principal foodstuff items. No systematic breakdown is given of overall production to show the respective outputs of European plantations and African growers. The information on which the following remarks are based is thus incomplete.

The case of Guinea may at once be put aside. According to information given to the I.L.O. Commission by the Director of Native Affairs in Guinea, there are apparently no European-owned plantations existing in the province. The active population - roughly 40% of the total African population - would seem to consist of independent growers producing mainly rice and groundnuts.[29]

Agricultural production in Angola and Mozambique is more complex in structure: two distinctly separate sectors exist side by side, one European and the other African. It is to be noted at the outset that the spectacular increase in output already referred to has been confined to export items. The statistics reveal no such production increase in respect of items for home consumption, that is to say for consumption by the African. Egerton, who cannot be said to be prejudiced against the Portuguese administration, points to a characteristic detail.[30] In the Nova Lisboa region, where stock-farming conditions are good, there are a million head of cattle owned by Africans. The stock, however, is in poor condition, and cheese and butter production fell by 50% between 1951 and 1955. At the same time cheese and butter imports doubled. Is it that the administrative authorities are mainly interested in, and helpful towards, farmers producing export crops? Another disquietening symptom is the fact that there

TABLE XVI

GROWTH OF PRODUCTION
OF CERTAIN AGRICULTURAL PRODUCE

(In thousands of tons)

	1937/8	1953/4	1954/5	1955/6	1956/7
Sugar					
Angola	32	46	44	42	53
Mozambique	46	93	90	124	139
Coffee					
Angola	16,4	75	58	79	81
Tea					
Mozambique	0.5	3	5	6	7
Cotton					
Mozambique	6	34	28	22	30
Sisal					
All Portuguese territories	26	53	54	65	63

Source: African Labour Survey, p.740, table 5

has been very little development of co-operative undertakings in African agriculture. Far from encouraging such enterprises the administrative authorities - at least according to certain reports - have actually curbed their development in the belief that they might conflict with the private interests of the European merchants and with the basic principles of the Corporative State.[31] In Angola there is not a single African co-operative in existence. In Mozambique three farming and marketing co-operatives are reported to have been set up in the Chibuto District and three others in the Manica District; however, these undertakings are still at the experimental stage and are in any case said to be squarely under the thumb of the administrative authorities.

To judge from the agricultural survey conducted in Mozambique during 1955 and 1956 and the various papers that have been published on the Province's economy, it would seem that the African and European sectors each concentrate on a different group of products.[32] Cotton, rice ans cashew nuts form the staple African-grown crops, while copra, sisal, sugar-cane and tea are grown on extensive plantations belonging to various large companies. According to Table XVII the European sector consists of 1,747 plantations amounting to a total of 326,533 hectares (or 818,332 acres) under cultivation. No precise information is at hand as to the overall area under cultivation by African growers. In 1956, however, a Portuguese economist, Mr. Josué Costa Junior, estimated the gross income of the European sector at 530,000 contos and that of the African sector (marketed yield only) at 549,000 contos.[33] The gross product of the 1,747 European-type plantations is thus approximately equal to that of all the individual African allotments taken together - which at first sight seems unjustly disproportionate. A further point to be noted is that the wages paid to the 134,142 African workers employed on the plantations amount to only slightly more than one-third of the gross income earned by those same plantations.

TABLE XVII

M O Z A M B I Q U E

Plantations Operated by Non-Indigenous Persons

(Agricultural Survey 1955/56)

Number of plantations:	1,747
Total area of plantations:	1,459,159 hectares
Total area under cultivation:	326,533 hectares

	Managerial Staff (non-indigenous)	Labourers, etc. (natives)
Staff employed	558	134,142
Sum total of salaries paid per annum (in contos)	26,330	194,330
Average annual salary (in escudos)	47,000	1,440

Source: Anuario Moçambique - 1958 - p.298.

As regards Angola, Tables XVIII and XIX reveal that 75% of the coffee crop - the country's main source of income - is grown on European plantations; cotton, on the other hand, is grown entirely by Africans. Most of the coffee plantations in the Congo and Cuanza Norte Districts are reported to be small or middling in size; those in the Cuanza Sul District are owned, in general, by large companies.[34]

In view of the large part they play in the industrial and agricultural life of both Angola and Mozambique, the large private companies will be studied separately in the next paragraph. For the moment attention will be given to those sectors that are specifically African, namely cotton (in both Provinces) and rice (in Mozambique).[35] When the New State came into being in 1926 the combined cotton production of both Provinces stood at only 800 tons. At that time the requirements of the metropolitan cotton industry were running at 17,000 tons a year. The first of a series of laws was then passed compelling the African farmers in certain regions to plant cotton over an area of between half and one hectare. In 1938 the Government set up the Junta de Exportaçao de Algodao which was to organize not only the export of cotton but also - indeed above all - its production on lands under African cultivation. Concessions were given to a number of companies which exercised an exclusive right of purchasing the cotton produced in certain regions. By 1942 cotton production had risen to 6,000 tons in Angola and to 23,000 tons in Mozambique. The metropolitan industry's requirements, which had meanwhile increased to 32,000 tons, were now almost covered by the two Provinces alone. This development was only brought about through severe pressure on the African growers. These were obliged to neglect their food production, and the country went through several periods of famine. As a result, cotton growing has always been unpopular and right up to the present day the authorities have had to maintain constant pressure at all levels to ensure a continuing rise in cotton output. Rice-growing was likewise made compulsory in certain regions of Mozambique, such as the Zambezi delta and the Sul do Save District,

TABLE XVIII

A N G O L A

Coffee Production - 1959

Number of plantations owned by Europeans:	1,821
Area under cultivation:	257,962 hectares
Total African staff employed:	86,360

Yield (in tons)

	European Plantations	Land under Native Cultivation	T o t a l
Over the entire territory	65,772	22,221	87,993
By Districts, viz:			
C o n g o	13,304	6,496	19,800
C u a n z a N o r t e	30,815	13,345	44,160
C u a n z a S u l	18,733	834	19,567

Source: Anuario Angola - 1959 - pp.94-95.

TABLE XIX

A N G O L A

Production of Seed Cotton (Native Growers) - 1959		
Total area under cultivation		51,190 hectares
Principally in the Districts of		
	Luanda	12,345 hectares
	and Malange	32,137 "
Yield:		23,718 tons
Total value:		72,054 contos

Source: Anuario Angola - 1959 - p.93.

where conditions were particularly favourable. Prior to 1939 the Province imported 10,000 tons of rice each year. Annual production today is in the region of 30,000 tons. Since it offers the immediate advantage of covering part of their food requirements the growing of rice has not met with the same disfavour shown by the Africans towards cotton planting. There are, however, certain features common to both activities which cause resentment among the African growers. First, there is the presence of the copulsory intermediary, namely the concessionary company to whom all harvests must be sold. Secondly, the prices are fixed by the Government - fixed at a level which is deliberately below that of world market prices. The same African that sells raw cotton must later buy Portuguese-made cotton goods at prices higher than those practised elsewhere, that is to say outside the protected market of the Overseas Provinces. It is not surprising that this shrewd trade policy has aroused feelings of deep animosity towards the administration in both Angola and Mozambique.[36]

Egerton openly describes the Portuguese Government's economic policy as "clearly mercantilist". He writes:[37]

> The mercantilist policy is evidenced by the fact... that quotas - 100% in the case of cotton - are reserved for Portugal in the export of certain Angolan produce, at prices fixed by the Portuguese Government which are usually, and sometimes considerably, below the prices obtainable in the world market. The Portuguese Government, too, regulates industrial development in Angola and, so far, such development has been strictly limited and confined to making up or processing raw materials which the country itself provides.

During 1960 and early 1961 the tension caused by the Government's cotton policy reached such a stage that riots broke out in the Malange region. The Government seems to have realized the seriousness of the situation: a Decree (No.43,639) of May 2, 1961 repealed all existing laws and regulations relating to compulsory

cotton growing. Article 1 of this enactment states with explicit clarity that cotton growing is henceforth to be a voluntary undertaking.[38] This measure is another of the various liberal reforms carried out in 1961. It should help to remove the rigid division separating the two sectors of agricultural production: the "profitable" sector earmarked as the preserve of the settlers, and the "unprofitable" sector to which the African have been more or less relegated.

§3. The Big Companies

Reference has frequently been made to the important role played by large industrial and agricultural concerns in the economy of the African Provinces. The position they occupy and the influence they wield over the general growth and development of the territories deserve closer attention.

I.- In Mozambique several branches of agriculture have become the exclusive preserve of a few large companies.[39] The flourishing tea plantations along the Nyasaland frontier are in the hands of six private companies. The sisal plantations in northern Zambezia are owned by a group of fourteen companies. Most of the copra produced comes from the palm-tree estates that stretch in an almost unbroken line along the coast at Quelimane; many of them are among the largest in the world: they are the property of the Boror Company (67,500 acres), the Zambezia Company (20,000 acres) and the Madal Agricultural Company (30,000 acres). Sugar-cane production is concentrated in the better-watered alluvial areas and on property owned by three large companies: Sena Sugar Estates Ltd (40,000 acres: the 1960 raw sugar crop amounted to 72,600 tons out of a total of 142,000 tons for the province as a whole); the Buzi Agricultural Company (12,500 acres); and Incomati Sugar Estates Ltd. In Angola the most important companies are the Angolan Agricultural Company, which

own the largest coffee plantations in the territory, and the Casequel Agricultural Company, which operates various sugar-cane estates.

II.- As regards industry, two companies, both financed by foreign capital, hold dominiant positions in Angola's economy: the Diamond Company of Angola and the Benguela Railway Company.

The Companhia de Diamantes de Angola was established in 1917 with financial backing from Portuguese, British, Belgian, French and American capital.[40] The Portuguese Government subsequently granted the company exclusive prospecting rights over most of the territory for a period of 50 years from May 14, 1921, and a perpetual right to exploit all deposits discovered. Diamang - the usual name given to the company - was constituted under Portuguese law and has its registered offices in Lisbon. Most of the capital, however, is held by the Diamond Corporation Ltd, which is itself a subsidiary of De Beers Consolidated Mines Ltd. Its total capital of 294,100,000 escudos is divided into 1,730,000 bearer shares of which the Portuguese Government holds only 200,000. Diamang is exempt from all customs duties on incoming equipment and machinery and out-going diamonds. Of the annual net income 6% goes to the board of directors and the remainder is divided equally between the stockholders and the Province of Angola. At present Diamang works 37 mines and employs a permanent labour force of some 19,000 Africans; operations are directed and managed by a further 400-odd European employees. Its entire output is marketed through the Diamond Corporation Ltd. Output in 1959 was 1,015,688 carats with a value of 590,000 contos.[41] The net income for the same year amounted to 224,093 contos; 11,881 contos went into rserves and the rest was shared equally between the stockholders and the Province. The conditions under which the company operates are obviously conducive to handsome profits: Diamang's net profits amount to practically 50% of its gross receipts. The figures shown in Table XX (opposite) indicate the Province's share of the annual net earnings between 1955 and 1960; the same amounts were, of course, distributed among the

TABLE XX

Share of Profits Paid to the Province of Angola by the Companhia de Diamantes de Angola

(In contos)

1955	94,918
1956	79,455
1957	86,191
1958	87,162
1959	87,727
1960	106,105

Source: Anuario Angola - 1960 - p.276.

stockholders as dividends. These figures should be kept in mind; they will later be compared with the sums paid out in wages to the company's African employees.

The Companhia do Cominho de Ferro de Benguela was founded at the beginning of the century by Sir Robert Williams, a British financiar and agent of Tanganyika Concession Ltd, with the aim of establishing a rail connection between the copper deposits in South Katanga and the Angolan port of Lobito. Like Diamang, the company was constituted in accordance with Portuguese law and has its registered offices in Lisbon. Only 10% of the capital is in the hands of the Portuguese Government; the remainder is held by Tanganyika Concessions Ltd. The line was constructed between 1903 and 1929. The gauge is the same as that on the Congolese, Rhodesian and South African networks with which it connects. In recent years gross receipts have varied between £5,500,000 and £7,400,000.[42] The cost of constructing the railway was approximately £13 million.[43] It would seem, therefore, that the line soon paid for itself. Evaluated in contos, the gross receipts for the year 1959 were 438,037 contos and the net profits were 177,647 contos. According to a recent statement made by an official Portuguese representative to the newspaper Le Monde of Paris, earnings amounted to 264,000 contos over the first half of 1960 and to 327,000 contos over the second half, thus making a total of 591,000 contos for the whole year.[44]

In Mozambique the railways are run almost entirely by the government. In Angola only the Luanda and Moçâmedes railways are government property. Like the Benguela railway, the small Amboin network belongs to a private company financed by foreign capital. In 1959 total earnings over Angola's entire railway system amounted to 505,540 contos.[45] As already seen, the gross receipts of the Benguela railway alone were 438,037 contos - almost 90% of the overall earnings. The Benguela railway thus occupies far and away the leading position in Angola's rail transport industry.

III.- It is interesting to add these figures to those quoted earlier. The combined income of the two companies - 90% of whose capital is in foreign hands - amount to over one million contos each year. This is equivalent to one third of Angola's annual exports and to cover one half of its ordinary budget revenue. One obtains some idea of the pressure that these companies can exert on the Provincial Government, if not also on the Central Government in Lisbon.. It should be mentioned that Diamang recently granted the Province of Angola a loan of £1,250,000.

Diamang and the Benguela Company are not the only foreign-run companies operating in the Portuguese Provinces. A large part of the capital behind the Boror and Zambezia Companies, Sena Sugar Estates Ltd and Incomati Sugar Estates is likewise held by foreign finance groups. The Mozambique Coal Company, which mines the Moatize deposits, is a subsidiary of the Société minière et géologique belge. The prospection and exploitation of oil deposits in the two Provinces have been conceded to a subsidiary of the Petrofina and Royal Dutch groups (in Angola) and to a subsidiary of the Gulf Oil Company (in Mozambique). According to recent information, certain German, Japanese and Anglo-American finance groups are prepared to invest a total of £275 million in Angola alone.[46]

IV.- These various factors confirm the conclusion drawn earlier in this chapter regarding the typically colonial nature of the economy of Angola and Mozambique.

1) Under colour of integration, agricultural and industrial production in the Provinces is governed by the interests of the Portuguese economy; this is a reflection of the unequal relations often referred to between the servant economy of the colonial territory and the master economy of the metropolitan territory.[47]

2) Over and above this fundamentally political domination comes a measure of purely economic domination, namely the establishment in the provincial territories of large private companieswhose policies are framed and directed by

foreign finance groups; these escape all control by the Central Government and have powerful means of exerting pressure on the local authorities.

3. The result of this double domination is the concentration of the essential factors of production and of the distributive and marketing networks in the hands of a few large private concerns (mining, agricultural and trading companies) and, at a lower level, of the European settlers owning plantations.

What is the position of the ten million Africans under this system? They would seem to have a choice between falling back on a subsistance economy and becoming integrated into the market economy. Such integration, however, can only take place at the lowest of levels, namely in the form of unskilled labour in mines and on plantations; the question will therefore be examined in a later chapter concerning the general conditions of work in the Provinces. The fact remains, however, that under such a system any increase in production, no matter how spectacular, benefits no more than a small group of landowners and private undertakings; it cannot have any truly onlivening effect on the economy of the country as a whole. In other words, though coffee and diamond production has been soaring for the last twenty years, the conditions under which the average Angolan miner, plantation worker and independent grower live their lives have remained substantially unchanged.

§4. Invisible Exports

It has already been noted that a certain number of transactions outside of normal trade and coming under the general heading of "Services" have considerable - and salutory - influence on the balance of payments of both the individual Provinces and the whole escudo area.

These operations may be divided into two main categories. First, there are those relating to the "income" automatically earned by Mozambique (and, to a lesser degree, Angola) simply by reason of its position on the map. Mozambique commands the natural sea outlets of the Central African Federation and of part of the Transvaal. Each year the rail traffic moving seawards across Mozambique from the bordering countries adds up to an average volume of some ten million tons. 50% of the Transvaal's and 90% of the Central African Federation's overseas trade (plus a part of Katanga's) passes through the seaports of Beira and Lourenço Marqués. As already mentioned, the fact that the ports and railways are run by the Government contriubutes handsomely to the Province's finances. Furthermore since the South African and Rhodesian importers and exporters pay for these services in their respective currencies, it also helps to produce a sound balance of payments. In Angola the Benguela railway, which exports part of Katanga's ore output, likewise receives most of its earnings in foreign currency. Together, the railways of the two Provinces are said to bring in, each year, an average of $15 million in foreign currencies.[48] A further well-stocked source of foreign currency is provided by the 60,000 Transvaal and Rhodesian tourists that flock to the Mozambique beaches every year.

Closer attention, however, must be given to the second category of "invisible exports", for here it is the African population of Mozambique that plays the leading role. The operations concern the transfer of funds resulting from the seasonal migration of African workers to South Africa.

There has long been a regular flow of migration: since the beginning of the century large numbers of Mozambique workers have been leaving for the Transvaal to seek work in the mines. Recruitment has been taken over by an official body, the Witwatersrand Native Labour Association. A convention to organize and regulate this migration was first drawn up in 1909 between the Mozambique and Transvaal Governments.[49] The basic document, however, is the Convention of September 11, 1928, concluded between

the Governments of South Africa and the Portuguese Republic; this was modified on November 17, 1934, and its provisions are still in force today.[50] The Convention has the following title: "Introduction of Native Labourers from the Colony of Mozambique into the Province of the Transvaal, Railway Matters, and the Commercial Intercourse between the Union of South African and the Colony of Mozambique." The title alone indicates that the question of labour supply is associated with that of trade relations. The Convention is, in fact, an exchange of services; Portugal is to help its neighbour recruit the manpower necessary for its mining industry and, in return, South Africa undertakes to direct 47.5% of the Transvaal's overseas trade via the Mozambique rail netweork and the port of Lourenç Marquês. The Portuguese Government thus makes use of the Province's labour resources to procure commercial benefits.

However, the recruitment of Mozambique workers is not only to the advantage of South Africa. Having fixed the maximum number of recruitable workers at 80,000 a year (Article 3), the Convention then makes a number of financial provisions which are highly relevant to the present context. 1) The recruited worker must obtain a Portuguese passport, valid for one year, for which he pays a fee of 10s.0d.; this passport is renewable for six months on payment of a further 5s.0d. (Article 9). 2) The employer is required to pay a due of 1s.6d. for every worker recruited or re-engaged and a further due of 2s.9d. per month per native employed (Article 10). 3) All sums payable by the employer under the terms of the Convention - wages, fees and dues - are to be paid in South African currency (Article 26). Apart from a small fraction paid to the recruits each month at their place of work, the amount of wages due for the period of contract is transferred in South African currency to the Portuguese authorities. When the worker returns to Mozambique, the authorities pay what is due to him in escudos, after deduction - naturally - of head tax. As can be seen, the Portuguese authorities gain all round.

In addition to the workers recruited in the prescribed and lawful manner there would seem to be many who migrate illicitly. According to statistics, of the 108,527 workers who migrated to South Africa in 1959 39,610 did so unlawfully.[51] To judge from these figures, the ceiling fixed by the Convention is far from being reached: it is quite possible that many Mozambique workers who decide to work in the mines prefer to do without the costly services provided by the authorities. Nontheless, during 1959 the Province of Mozambique received as much as £1,321,137 - or 105,690 contos - in respect of held-over wages. In addition, the various fees in connection with passports and recruitment brought in a further 66,139 contos, consisting, for the most part, of the £705,048 paid by the South African employers.[52] The recruitment of its nationals for work in the South African mines thus provides the Portuguese Government with an enormous fiscal and financial advantage - over and above the purely commercial benefits expressly provided for by the 1928 Convention.

One report on Mozambique's economy goes as far as to include migrant workers under "Export Products".[53] Is this labour migration voluntary, forced, or merely highly encouraged by the local authorities? An attempt to elucidate this question will be made in the chapter concerning conditions of work. Whatever the answer, we must not be misguided when mention is made of the "high wages" paid in the South African mines: these wages amount to roughly 3s.0d. a day and can only be called "high" in comparison with local wage rates. More than the workers, it is the authorities that benefit. James Duffy, who is always fair and temporate in his judgment, severely criticizes this exploitation of African labour. He writes:[54]

> The Mozambique-South African Convention...is the stepchild of a centuries-old policy in Portuguese Africa which, stripped to its essentials, has regarded the African as a working hand, call him slave, <u>liberto</u>, <u>contratado</u>, <u>voluntario</u>, or what you will.

Part IV

THE SETTLEMENT OF THE TERRITORIES

We now come to the second objective of Portugal's economic policy in the Overseas Provinces as set forth in the Organic Law: the settlement of the territories through "immigration schemes for families of Portuguese nationals".

I.- Certain facts have already been mentioned: that the first attempts at both individual and collective colonization date back many years - at least in Angola; that persistent endeavours to establish Portuguese families in the African territories were made throughout the 19th century; and that the overall results were disappointing. The Government nonetheless remained unshaken in its hope that the traditional flow of emigrants to Brazil would one day be deflected towards its Colonies on the African mainland. In a book already referred to in an earlier chapter, General Norton de Matos outlined an ambitious scheme for transforming Angola into another Brazil by stepping up Portuguese immigration to 100,000 settlers a year. Achievements fell far short of ambitions; and between the collapse of the monarchy (1910) and the arrival of the New State (1926) a few modest developments in the Nova Lisboa region - thanks mainly to German settlers expelled from South-West Africa - were the only successes worthy of record.

With the rise to power of Dr. Salazar, colonization was given a new look: it was now to be painstakingly encouraged, and run, by the State. The Government initiated a policy very similar to that already pursued by the Fascist Italian Government in Cyrenaica and Tripolitania and, later, in Ethiopia. This consisted of the systematic prospection of the territories' resources, thorough study of the physical, climatic and ecological conditions, clearing and reclamation of selected areas, establishment of colonization centres, transfer of Portuguese families, free provision of a part of the necessary equipment and livestock and

long-term loans to help promote subsequent expansion of each family's undertaking. It is interesting to weigh this policy against that pursued by Dr. Salazar's Government in Metropolitan Portugal. There, three-quarters of the population are employed in agriculture and eke out a difficult existence on hemned-in plots of poor-quality soil. In the Provinces north of the Tagus the land is divided up into minute fragments and jig-saw puzzle properties. In striking contrast, the region south of the Tagus in one of large estates employing - for part of the year - an impoverished agricultural proletariat. This system only serves to aggravate the difficulties already created by the nature of the climate and the poverty of the soil. Yet in a survey published in 1954 by the Economic Commission for Europe we find the following statement:[55]

> Although Southern Portugal is dominated by a latifundian agriculture which is, perhaps, more backward than that in any other region of Europe, there is no provision for exportation of latifundia. The settlement is mainly on commons. So far, less than 1,000 families have been settled.

This would suggest that it is primarily in order to avoid having to undertake agrarian reforms at the expense of the large landowners in Metropolitan Portugal that the Portuguese Government is anxious to transfer its excess population to the African Provinces. If those Provinces afforded unlimited areas of habitable and arable land, then no more would need to be said. But that is not the case. We have already seen that the arrival of white settlers creates problems of cohabitation with the African inhabitants, that African communities are already reported to have been displaced or dispossessed and that, if the flow of immigrants is maintained, the land issue, particularly in Angola, may well become explosive.

Nonetheless, Portugal is determined to continue with its colonization policy. An important instrument of that policy was Legislative Decree No.38,200 of March 10, 1951. Its essential

provisions were as follows:

> Bearing in mind the need to increase and assist the flow of emigration to the Overseas Provinces, to develop the cultural relations between Metropolitan Portugal and the African Territories, and to undertake surveys with a view to the colonization of the said Territories and the training of future settlers; bearing in mind that the funds allocated to the Colonial Minister have been exhausted;...
>
> Article 1.- To the degree permitted by the state of the Treasury, the Government shall, each year, allocate to the Minister of the Colonies funds to promote the settlement of the Overseas Territories and to strengthen the relations of the said Territories with Metropolitan Portugal.

The Decree goes on to state that the funds are to be administered directly by the Minister of the Colonies and shall be used to finance schemes and surveys, the training of future settlers, and the outgoing travelling expenses of the poorer settlers and of the families of military and naval personnel who are serving in the Overseas Provinces and wish to set up their home there.

II.- The settlement of the Overseas Provinces may therefore be said to have two distinct forms.

First there is individual (or freelance) colonization; this often dates back many years. We have already seen (Tables XVII and XVIII) that according to official statistics there are 1,747 European plantations in Mozambique and 1,821 in Angola. In terms of size the great majority lie between the large company-owned estates and the colonization centres. In Angola this form of colonization is found principally in the regions to the north of the Cuanza river, in the Congo, Luanda and Cuanza Norte Districts. There is particularly dense settlement in the region of Vila Marechal Carmona, one of the big coffee-producing centres.[56]

Secondly there is the collective (or State-controlled) colonization introduced by the Estado Novo. Concerted schemes are going forward in both Angola and Mozambique. The experiment seems to have got off to an unhappy start; the authorities were apparently over-indulgent in their selection of applicants and the newly-created centres were thrown open to immigrants who were hardly qualified for the task ahead of them and had come purely with the idea of making easy money by using unpaid labour. A number of these initial settlers returned to Portugal while others moved on the South Africa (500 were turned back by the police in 1949).[57] More careful selection has since raised the level of the average settler, and, according to eye-witness reports, the results achieved over the last few years have been succesful. In Mozambique two areas have been marked out for colonization projects: the lower Limpopo valley (where the Caniçado and Guija dams have already been built) and the Vila Cabral region of the Niassa uplands. In 1957 a total of 103 Portuguese families settled in the Limpopo area and a further 3,000 families were planned to arrive in the near future.[58] In Angola experiments have gone ahead more rapidly and for some ten years now the Government has been concentrating its efforts on the steady expansion of two colonization centres: the Cela centre (Cuanza Sul District) and the Cunene Valley centre (Huila District). The colonization centre at Cela has already received numerous foreign visitors.[59] It owes its beginnings to Captain Agapito de Silva Carvalho, who was for eight years Governor-General of Angola. Following initial surveys carried out in 1950 a site was chosen on a vast plateau some 4,500 feet above sea level. 1,250,000 acres were then marked out as a "European colonization reserve", the African population then inhabtiting the area numbered, it seems, only 5,065 able-bodied men. The reserve was divided up into individual family-size lots, each of roughly 50 acres of areable land and 100 acres of pasture. The essential preparatory work and the provision of basic facilities, e.g., ground drainage, road construction, erection of living quarters and farm buildings, were undertaken by the administrative authorities. On his arrival

each settler is given land, a farmhouse and a few head of cattle. The cost of settling a family is estimated at 150 contos; the money is advanced by the Province and is repayable over 25 years. One important feature which marks a veritable revolution in traditional colonization methods is that the farmers are forbidden to use African labour, even for domestic chores. The centre is made up of several communities, each consisting of 26 farmsteads. The first village was finished in 1953. According to the latest information, 285 families, totalling 2,111 persons, had set up home by the end of 1958. Plans were afoot to bring the number of families up to 2,000 by fitting out a further 112,500 acres of land.[60] The Cunene Valley colonization centre is associated with large-scale hydro-electric and irrigational undertakings. Work on the Matala dam, built at the confluence of the Cunene and Cubango rivers, was completed in 1958; as a result, some 5,000 acres of newly-irrigated land are now under cultivation. 205 families had settled in the area by the end of 1958. The centre is planned to receive a further 475 families over the next few years.[61] In addition, the Portuguese Information Office recently announced the arrival of the first batch of immigrants at a new settlement centre in the Congo District, designed to accomodate 1,000 settlers. These will grow mainly coffee and oil-seed plants and are authorized to use African labour.[62]

Outside of these colonization schemes the Portuguese Government has been making a laudable, if limited, effort to group African communities in rationally-designed villages and to initiate them in long-term cultivation and modern farming techniques. These are the so-called colonatos first set up on the initiative of the then Governor-General, de Silva Carvalho. In Angola there are colonatos at Damba, 31 de Janeiro and Loge in the Congo District and at Caconda and Chiumbe in the Huila District. Each comprises several hundred families. The administrative authorities prepare and lay out the ground and provide the colonatos with guidance in farming matters through qualified advisers.[63] In Mozambique a number of rural communities of a similar type have been set up in the Inhamissa region of the lower Limpopo. This experiment is

part of a large scheme for the drainage and cultivation of what was previously marshland. Some 5,000 families are said to be involved.[64]

III.- What has been the sum achievement of the Portuguese Government's settlement policy? Though there have been a number of individual successes, the overall results are unimpressive. Most of the 100,000 settlers that in the vision of General Norton de Matos were to pour into Angola every year seem to have stayed at home. Reference has already been made (see Chapter I) to the latest available census figures for the white populations: 78,826 in Angola (1950 census) and 65,798 in Mozambique (1955 census). It is claimed by some authors that European immigration has soared since that time. According to Antonio de Figueiredo, the white population of Angola had climbed to 110,000 by 1955 and to 200,000 by 1960, while in Mozambique it has risen to over 90,000.[65] Since, however, he quotes no evidence in support of these estimates, one must be chary of accepting them. The only truly reliable data are those provided by official statistics regarding the year-by-year volume of immigration into the Overseas Provinces. These record, for example, that 1,647 settlers arrived in Mozambique in 1958 and that 3,141 arrived in Angola in 1959.[66] To judge from these sample figures, the flow of immigration is still of no great volume.

The disturbances that broke out in Angola in 1961 could quite conceivably have put the brake on immigration. However, contrary to what might be expected, the Government seems determined to give it a new boost. In his speech of August 28, 1961, Dr. Adriano Moreira affirmed:[67]

> We believe it necessary to increase the settlement of our Africa by European Portuguese who will make their home there and encounter in Africa a true continuation of their country...Because the task is enormous and urgent, however, and cannot be left to individual initiative the need was felt to co-ordinate

> the efforts of all provincial bodies to enable them, with the help of the emigration services in continental Portugal, to tackle realistically this problem to which we attach a high priority...In this way we hope to see defined and fulfilled in time the conditions necessary to settle, among others, the young men who are now doing their military service there...As we clearly proclaim the high priority of the problem of settlement by people from contiental Portugal, we wish to underline before the community of nations Portugal's decision to continue its policy of multiracial integration, without which there will be neither peace nor civilization in black Africa.

This official statement found strong echo among the Portuguese population of Angola who, at about the same time, demanded the mass immigration of thousands, tens of thousands "or even millions" of white colonists.[68] And on September 6, 1961, special "provincial settlement councils" were created under Decree No.43,895 for the purpose of organizing and regulating the colonization of the individual Provinces.

In many respects this policy of settlement ad libitum would seem a dangerous one. It may - if it bears fruit at all - help the Lisbon Government to solve its problems at home, but it is doubtful whether it holds any promise for the African.

1. For some time various observers have underlined the serious social consequences deriving from the presence - mainly in the towns - of a white proletariat in competition with the African population for both skilled and unskilled manual employment.[69] It is at this social level that colour consciousness is at its sharpest; and continuing discriminatory treatment may well doom the African to unemployment.

2. The mass settlement of European colonists over the country's best arable land will inevitably lead to conflict with its traditional occupants. Regardless of what is sometimes said,

land is not unlimited in Africa, at any rate good cultivable land, and of all the problems and issues that arise in a colonised country land is the most explosive. As already seen, to set up even the smallest of colonization centres has from the very outset entailed the displacement of African communities.

3. The idea of encouraging military and naval personnel to settle in the country was formulated as part of official policy in the Decree of March 10, 1951. This altogether Roman conception of the soldier-farmer upholding the sovereignty of the Empire on African soil may well swell chests in Metropolitan Portugal but will hardly be taken to by the Africans. The ultimate effect of this policy is to establish what is in fact an army of occupation confronting the huge reserve army of African workers.

4. In its conviction that Portuguese colonization is something special and apart the Salazar Government has decided to turn its back on "the wind of change" and on the precedent and parallel experiences of others. One is nonetheless entitled to express one's view, namely that to advocate "settler colonization" is, today, to be somewhat out of date, particularly in Africa.

5. The "absolute priority" given by the Portuguese Government to the settlement of the Provinces will inevitably be reflected in its efforts to utilize their inherent resources. The economic development of the territories will be made to hinge on the interests of the colonists rather than on those of the African population. This brings us to the last subject of the present chapter: the development plans.

Part V

DEVELOPMENT PLANS FOR THE OVERSEAS PROVINCES

Part of the servitude which a colonial economy must suffer lies in the fact that the interest of the companies and individuals controlling trade and production are bound to the "master" economy of the Metropolitan Territory or that of a foreign country; they tend, therefore, to export their earnings rather than to invest them in the territory in question. According to the survey made by the Institut national de la statistique, the amount of earnings reinvested by the entire complex of companies operating in the Overseas Provinces is in the region of 670,000 contos a year - little indeed even when compared with the net earnings of those companies operating solely in Angola.[70] The coffee plantations are reported to have invested part of their profits in real estate in Metropolitan Portugal, more especially in Lisbon, where the new buildings lining the Avenida de Roma form a concrete monument to their prosperity.[71] A colony that waits to be subject to purely voluntary investment waits in vain. For a colony to develop economically action must be taken by the public authorities. Earlier in this chapter it was seen that several European countries had made substantial sacrifices in order to finance the development of their overseas possessions. What has been the policy of the Portuguese Government?

I.- Portugal has drawn up two six-year development plans; the first ran from 1953 to 1958; the second (1959-1964) is still in progress. These plans, which cover the entire Portuguese political complex, form the framework for the development of the Overseas Provinces.

As originally drawn up, the first plan (1953-58) provided for a total expenditure of 20 millions contos, of which 6 millions were to be devoted to the development of the Overseas Provinces. Owing to a lack of adequate resources the plan had to be revised on two separate occasions. The total programme of investment for

the Overseas Provinces was finally fixed at 4,828,000 contos. Among the three Provinces of continental Africa expenditure was divided as follows:[72]

Guinea	78,000 contos
Angola	2,182,000 "
Mozambique	1,889,000 "

The second plan (1959-64) has even higher amibitions: 30 millions are scheduled for investment over the whole of Portugal, including 9 millions in the Overseas Provinces. Expenditure in the three African Provinces has been distributed as follows:[73]

Guinea	180,000 contos
Angola	4,603,000 "
Mozambique	3,243,000 "

In view of the fact that Portugal's 1959 budget placed overall expenditure at approximately 9,500,000 contos, the current investment programme is bound to weigh heavily on the country's economy.

No detailed description of these development plans can be given here; all that can be said is that the sections concerning the Overseas Provinces each fall into two parts which are then subdivided into various items of expenditure: A) Utilization of Resources and Settlement (agriculture, forestry and stock-farming; hydro-electric development; colonization); B) Communications and Transport (railways; roads; harbours; airports and aeronautical equipment).

There are two aspects to these plans that are of particular relevance to the present study: their source of funds and their pattern of investment.

II.- As regards their source of funds, the two plans differ considerably.

The volume of investment provided for under the first plan may give a false impression of the Portuguese State's real contribution to the funds. In its Economic Survey of Europe in 1953 the Economic Commission for Europe drew attention to the modesty of the sums being spent by the Government on the development of the country. The State's direct contribution to the plan amounted to only 3,860,000 contos; social security funds (providencias) provided a further 1,400,000 contos and the balance had to be made up out of private investment funds and foreign credits and by self-financing on the part of the private companies.[74] The State's annual contribution thus amounted to roughly 1.5% of the Gross National Product, which, at that time, was in the region of 50 million contos. Moreover, these figures relate to the plan as a whole. When it came to financing that part of the plan devoted to the Overseas Provinces, the principle whereby each Province provides for its own expenditure was rigidly adhered to. Table XXI (opposite), taken from the United Nations' Economic Survey of Africa Since 1950, shows how the first plan for Angola and Mozambique was financed. It gives no more than a broad outline but is nonetheless instructive. It is seen that Metropolitan Portugal offered no outright grants; its contribution was confined to loans, covering 5% of the planned expenditure in Angola and 58% in Mozambique. The 78,000 contos that Guinea was scheduled to invest under the same plan were likewise borrowed from Metropolitan Portugal.[75] To cover the balance of its expenditure - 2,100,000 contos - Angola had to draw on its accumulated budget surpluses, levy special taxes and resort to contributions from the marketing boards and other local institutions. Mozambique and Guinea will naturally have to draw on their regular sources of income in order to repay the sums loaned them by Metropolitan Portugal.

The second plan provides that of the 9 million contos to be invested in the Overseas Provinces 5 millions are to be contributed by the Metropolitan Territory. The ratio between the amount of expenditure to be covered by the provincial budgets and that provided by loans from Metropolitan Portugal has been reversed.

TABLE XXI

FINANCING OF FIRST DEVELOPMENT PLAN (1953-1958)

(In contos)

	Total Expenditure	Grants		Loans (from Metropolitan Portugal)		Local Resources	
		Value	Percentage	Value	Percentage	Value	Percentage
Angola	2,200,000			100,000	5%	2,100,000	95%
Mozambique	1,900,000			1,100,000	58%	800,000	42%

Source: Economic Survey of Africa since 1950 -
Table 4 - XXIV - p. 246 (United Nations, New York, 1959)

That is the only difference. Of the State's share of the overall burden - 26 million contos: 21 millions in home investments and 5 millions in loans to the Provinces - only 25% or so is to be financed out of the ordinary budget revenue and in the form of direct loans: the rest is to be provided by loan and insurance institutions, private loans, self-financing and foreign credits.[76] Moreover, assistance to the Overseas Provinces is to be limited to loans. The State indulges in no hand-outs, not even to help the Provinces meet commitments that have been decided upon over their heads: for the development plans were framed by the central authorities and approved by the National Assembly in Lisbon, the role played by the provincial authorities being merely secondary. The Provinces are expected to cover both their obligations towards the Metropolitan Territory and the amount of expenditure for which they are directly responsible by again drawing on their accumulated budget surpluses, levying special taxes and tapping special funds deriving from export duties and dues from certain concessions.[77]

What does this mean in terms of concrete figures? Angola's investment programme under the second six-year plan amounts to 4,603,000 contos, i.e., an average of 770,000 a year. The yearly investments over the first four years of the plan were, beginning with 1958, 366,000, 570,000, 978,000 and 819,000 contos respectively. The 1960 and 1961 figures break down as follows:[78]

	1960	1961
Total amount of investment	978,000	819,000
Financed by budget surpluses	235,000	101,000
" " funds from various sources	209,000	118,000
" " loans from Portugal	534,000	600,000

Mozambique's investment programme amounts to 3,243,000 contos, or roughly 540,000 contos a year. The planned expenditure for 1961 was 634,000, to be financed as follows:[79]

Budget surpluses	195,000
Special taxes	10,000
Railway revenue	75,000
Special Cotton Fund	15,000
Loans from Portugal	339,000

III.- Comparison of the two plans also reveals a certain change in the pattern of investment.

The first plan was more in the nature of a public works programme than a development plan. Of the 4,828,000 contos that were finally allocated to the development of the Provinces by far the larger part came under the heading of Communications and Transport: 45% of the investments went into railways (principally line extentions); 16.3% into hydro-electric schemes; and 11.2% into ports and harbour installations. Nothing was spent on scientific research, nothing on education, nothing on public health. The second plan marks a step forward in this direction. In the Overseas Provinces as a whole 356,500 contos have been allocated to scientific research and 628,000 contos to education and public health.[80]

Under the new plan investements of a social nature represent 6% of overall investments in Angola and 14% of those in Mozambique. Even so, this is no great sum in comparison with the financial efforts that have been made to improve social services in other non-self-governing territories on the African continent. This is borne out by Table XXII, taken from the United Nations' Economic Survey of Africa Since 1950.

Both plans, however, have one essential feature in common: the ample room made for investments connected, directly or indirectly, with the development of European colonization.

Under the first plan overall investments in Angola were planned at 2,896,000 contos.[81] If we turn to the heading Utilization of Resources and Settlement, we find that 980,000

TABLE XXII

Development Plans of Various Non-Self-Governing Territories in Africa

Distribution of Expenditures Over Certain Economic Sectors

(Percentage of Total Expenditure)

	Basic Facilities	Agriculture and Industry	Social Services
French Tropical Africa and Madagascar 1954-1957	48.9	29.2	20.5
Belgian Congo 1950-1959	56.3	6.4	20.7
Kenya 1957-1960	15.7	41.0	17.3
Uganda 1955-1960	8.3	32.8	25.8
Tanganyika 1957-1961	24.0	12.0	43.0
Angola			
1st Plan 1953-1958	70.0	29.0	0.0
2nd Plan 1959-1964	52.0	36.0	6.0
Mozambique			
1st Plan 1953-1958	74.0	24.0	0.0
2nd Plan 1959-1964	48.0	37.0	14.0

Source: Economic Survey of Africa Since 1950, Table 4 - XXII, p.245.

contos were scheduled for investment in the Cunene Valley colonization centre. Moreover, the planned investment of 179,000 contos in the Matala hydro-electric project is directly connected with the estblishment of this same centre. Of expenditures on Communications and Transport 950,000 contos - over two-thirds - were to be spent on extending the Moçâmedes railway, the immediate purpose of which is to serve the Cunene centre. In addition, the funds allocated for extending and improving the port at Moçâmedes (90,000 contos) and river traffic on the Cunene (10,000 contos) are not entirely unconnected with this centre. Altogether, therefore, we find that over 75% of the total planned expenditure in the province of Angola is bound up, in one way or another, with the settlement of white colonists in the Cunene Valley. Let us turn to the second plan, again taking Angola as an example.[82] Total planned expenditure: 4,603,000 contos. Under the heading Agricultural Development (450,000 contos) comes the Cela colonization centre, and under Communications and Transport (2,147,000 contos) we again find, among other projects, the Moçâmedes railway. Table XXIII (opposite) gives details of the programme of expenditure over a particular year, taken as a sample. It shows that out of a total expenditure of 255,755 contos on "Utilization of Resources and Settlement" over 100,000 contos were scheduled for investment in the Cunene and Cela colonization centres.

Let us now turn to Mozambique.[83] Under the first plan total expenditure was to run to 2,342,000 contos. Under the heading Utilization of Resources and Settlement 684,000 contos were allocated to the Lower Limpopo colonization centre. Table XXIV shows that during the sample year of 1956 this same project was to absorb almost 50% of total investments. Under the second plan overall expenditure in the Province has been raised to 3,234,000 contos.[84] Of this sum 950,000 contos is to be spent on "Agricultural Settlement", which means, for the most part, the continuation of the Lower Limpopo project. To this must be added the funds allocated to the hydro-electric and irrigation schemes in the Revué and Zambezi valleys(150,000 and 100,000 contos respectively), where further colonization centres are planned.

TABLE XXIII

A N G O L A

Programme of Development Plan Expenditure During 1959

(Extract)

(In contos)

Total	616,701
1.- Utilization of Resources and Settlement.....	255,755
Including:	
- Cunene valley irrigation scheme (Matala Centre).....	6,754
- Hydro-agricultural project at Cela.....	32,309
- Hydro-electric scheme at Matala.....	23,505
- Colonization of Cunene valley (Matala Centre).....	15,629
- Development of colonization centre at Cela	30,000
- Construction and maintenance of educational facilities.....	14,851
2.- Communications and Transport.....	360,946
Including:	
- Luanda railway.....	75,501
- Moçâmedes railway.....	78,603

Source: Anuario Angola - 1959 - p.287.

TABLE XXIV

M O Z A M B I Q U E

Programme of Development Plan Expenditure During 1956

(Extract)

(In Contos)

Total	254.310
I.- Utilization of Resources and Settlement	106.470
Irrigation, drainage and soil preparation in Limpopo valley	106,470
II.- Communications and Transport	147,840

Source: Anuario Ultramar - 1957 - p.215.

That the choice of investments under both plans was governed principally by the interests of European colonization has been implicitly acknowledged by high-ranking Portuguese officials. The following, for example, has been taken from an article in the magazine Civilisation by Professor Fernando Meireles Guerra, of the Higher Institute of Overseas Studies in Lisbon;[85]

> The substantial amounts allocated by the plan for the settling of Angola aim at creating the conditions for a larger immigration of the European Portuguese into the largest Province of Portuguese Africa. The plan provides for the immediate settlement of a number of thousands of European families in valleys situated along the Cunene river...This is the most serious attempt at European settling directed and carried out by the Portuguese in Africa...The plan also endeavours to create appropriate conditions for the settlement of the Europeans on their own initiative. Thus the huge amounts allocated to railway transportation, the improvement of ports, of electrical power production and to geological, mining and agricultural prospection, aim at allowing individual initiative to take its share in the creation of riches by the settling of Europeans assisted by the State, through the establishment of the basic conditions required for European life in Africa.

But where, in all this, is the desire to improve the conditions of life of the African who, we must remember, contributes a sizable share of the taxes on which the financing of such plans is based? In his book entitled L'Economie africaine, part of which examines the first Portuguese plan, President Mamadou Dia points to the absence of any investment of a social nature and roundly criticizes the whole project;[86]

> By virtue of dismissing the health and education of the peoples whose resources it is only too happy to utilize, the Lisbon plan stands condemned.

Utilization of resources, settlement...The double thread that has run the whole length of the chapter reappears. A certain amount of clinical detail has been necessary in order to lay bare the brand-marks of colonial economy on Portuguese Africa. Trade and production hinge on the interests of the metropolis and of large foreign companies. The mass of the African population is only associated with this market economy by virtue of providing labour; it continues to subsist at a level below that found in the few emergent islets of technical enlightenment and prosperity. There can be no true growth, no growth powerful and dynamic enough to raise up the whole population in an ascending spiral, without a thorough re-organization of the factors of production. It is not by chance that the present chapter stands where it does; for it throws light on those that have gone before and those that are to follow. The economic dependence that it describes provides the essential key to the political dependence outlines in the opening chapters. This same economic dependence also explains the conditions of work and social life that are now to be examined.

N O T E S

1 General information on the economy of Portugal's African Provinces will be found in Lord Hailey's African Survey and the U.N. Report. The volume of "Documentation française" entitled Situation économique des colonies portugaises (see bibliography) provides an excellent monograph. Bohm's survey is admirably thorough but a little out of date.

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4 Davidson, in P.A., loc. cit.

5 Duffy, pp.71-72.

6 Duffy, p.97.

7 For the prazo system see Duffy, pp.82-87.

8 Bohm, pp.150-157.

9 Bohm, p.153; Duffy, pp.90-93.

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11 Salazar, ibid., pp.300-304.

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14 Document A/ AC. 83/ L1/Add.14 of September 6, 1956; Document A/ AC. 93/ L8/ Add.15 of April 7, 1958.

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32 Anuario Moçambique 1959, pp.296 and 300; Spence, passim; Josué Costa Junior, Native Agriculture in Mozambique After the Second World War, in Civilsations, Vol. VI (1956), p.619.
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34 Irene S. van Dongen, Coffee Trade, Coffee Regions and Coffee Ports in Angola, in Economic Geography, October 1961, pp.328 and 338.
35 On this question see Spence, pp.52-60, and Josué Costa Junior, loc.cit., p.622 et seq.
36 Figueiredo, pp.97 and 111; Mondlane, pp.238-9.
37 Egerton, p126.
38 I.L.O. Report, p.93.
39 On this question see Spence, pp.66-69, and Mozambique's Economy.
40 The information that follows has been taken from Mining Yearbook 1961, London (W.E. Skinner), p.78.
41 Anuario Angola, p.102.
42 Information taken from Directory of Railways Officials and Yearbook 1961/62, London 1962.
43 Hailey, p.1570.
44 Le Monde, February 4/5, 1962.
45 Anuario Angola 1959, p.250.
46 The Guardian, February 8, 1962
47 For the background to economic domination in general see, in particular, Professor François Perroux' masterly work, La Coexistance pacifique, Paris(P.U.F.) 1959, 3 volumes; on its application in Africa see the various studies by President Mamadou Dia, especially L'Economie africaince, Paris (P.U.F.) 1957, and Nations africaines et solidarité mondiale, Paris (P.U.F.) 1960.

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50 I.L.O. publications, Legislative Series: 1928, Int. 3, p.24 et seq; 1934, Int. 7, p.1740 et seq.
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52 Anuario Moçambique 1959, p.153.
53 Spence, p.85
54 Duffy, p.173.
55 Economic Survey of Europe in 1953, p.149.
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60 Portugal I.R., No.4 (1961), pp.212-215.
61 Ibid.
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84 Fortuna, loc. cit.; Portugal I.R., No.3 (1958) and No.5 (1959); Mozambique's Economy, pp.1 and 8.

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CHAPTER V

S O C I A L C O N D I T I O N S

It should be said at the outset that, in view of their importance, conditions of work, though an essential factor of social life, will be studied separately in the next chapter. Here, our examination will be confined to the social aspects of the Portuguese colonial administration system. Part I, concerning the social integration of the African inhabitants of the Overseas Provinces forms a companion piece to Part I of Chapter I in which we examined their legal assimilation. Parts II and III concern the two most important "social" services: public health and education.

Part I

TO SOCIAL ASSIMILATION OF THE AFRICANS

The Portuguese have always maintained that they went abroad not to conquer but to civilize. History tells us that Portuguese colonization has never been guilty of such acts of genocide as have blotted the colonial records of other European Powers, e.g., the extermination of the Caribs, the North American Indians and the Australian aborigines. History also tells us, however, that the Portuguese slave traders sapped several areas of Africa of their human resources for the benefit of Brazilian agriculture. To this the Portuguese will reply that as a result of their policy Brazil stands as the greatest living example of successful multiracial integration. In any case such debates are of only incidental interest. What matters is the present. The question that must be asked is therefore: Do the Overseas Provinces today constitute - not merely in law but also socially-speaking - truly multiracial communities?

I.- Various impartial observers are agreed that racial prejudice is foreign to the Portuguese of European stock inhabiting the Overseas Provinces. Charles-Henri Favrod, who is often severely critical of the Portuguese, admits: "Properly speaking, there is no such thing as Portuguese racialism."[1] He writes that though he saw a number of notices that seemed to smack of a segregational attitude, these were altogether rare. Whites and blacks all used the same restaurants, the same cinemas, the same means of transport. Robert H. Eastbrook, the American journalist who toured Portugal's African Provinces for the Washington Post, noted that in Angola the hospitals were open to Africans and Europeans alike and were partly staffed by African doctors.[2]

This initial impression calls for some qualification. First, if to buy a bus or cinema ticket means spending a quarter, a half or possibly the whole of his daily wage, the African worker will not often have the opportunity to avail himself of his right to sit next to his white compatriot. Secondly, though Portuguese law is free of any discriminatory provisions in the key fields of marriage and family relations, the relatively low proportion of mulattos among the population indicates that mixed marriages and even permanent extra-marital intercourses between persons of different races are rare. The results of the last census (see Chapter I, Table II) show that in spite of four centuries of colonization the hopes of certain theorists for the ethnic transformation of the Provinces through the fusion of the component groups into a Euro-African (or Luso-tropical) race have gone largely unanswered. The census figures are as follows:

	Total Population	Whites	Mulattos
Guinea	510,777	2,263	4,568
Angola	4,145,266	78,826	26,335
Mozambique	5,764,362	65,798	29,873

Apart from in Guinea, the number of mulattos is no more than one-third or one-half of the white population. One can hardly speak of a thorough intermingling of races and peoples.

II.- Many observers have been favourably impressed by the fact that high positions in both private and public life (including the civil service and the professions) are held by Africans. The Cape Verde Islands have provided the Portuguese administration with several of its Governors and higher officials. The members of the I.L.O. Commission noticed that the Benguela Railway Company's higher-grade staff includes a number of Africans.[3] The Company's workshops at Nova Lisboa employ highly-skilled African workers.[4]

Here again, however, the situation calls for somewhat closer scrutiny. The regulations governing eligibility for employment in the public services are devoid of any discriminatory measure of a purely racial nature. They naturally uphold the distinction solemnized by the Legislative Decree of May 20, 1954, between "indigenous" and "non-indigenous" persons. But "non-indigenous" does not mean "non-African". A native applicant who has progressed so far as to acquire citizenship is judged on his own personal merits, regardless of his racial or ethnic origin. He enjoys equal eligibility with his white-skinned fellow-citizens for employment in both private and public undertakings.

But is this system sincerely and genuinly equalitarian?

1. Prior to September 6, 1961, any African who wished to apply for a post in the administration had first to acquire citizenship. This meant that he had to adopt a European way of life - in other words, to cut himself off from his background, break from his family and his village and assume a borrowed personality cut to an alien pattern. He was further obliged to meet certain educational requirements from which his white compatriots were exempt. True, the abolition of native status by the Decree of September 6, 1961, did away with the legal

conditions on which any ultimate equality of status had previously depended. However, whether the ingrained social conditions have changed is another matter. For several decades the authorities have fostered the creation of a class of detribalized Africans, small in number and socially superior to the mass of the "natives". This ingrained process of social laddering will hardly be swept away by a few printed words. It is probable that for a long time to come any African bushman wishing to take up employment in the administration or a higher-grade post in private enterprise will first have to qualify for membership of this local bourgeoisie.

2. What if the educational and professional qualifications were the same for everybody? As will be shown later in this chapter, there are extremely few Africans who have received even an elementary education. Secondary education is even harder to come by. In Portuguese Africa there are no facilities at all for higher education; and so far only a few - very few - privileged students have obtained grants to enable them to continue their studies at Lisbon or Coimbra University. To maintain that the European and the African enjoy equality of opportunity is therefore absurd. For what is the real situation? Candidates for higher-grade posts in the overseas administration receive their training at the Higher Institute of Overseas Studies in Lisbon. Adminission to the Institute is by competitive examination and the standards set are high. The Institute is therefore virtually closed to African applicants. The lower-grade posts are filled by normal end-of-course recruitment at the Lisbon Institute and by promotion within the public services. Administrative posts are thus awarded either to young administrators fresh from the Institute or to minor officials who have risen to the top of their ladder. In practice, however, such promotion is only open to officials of European descent, and no African has ever been offered the position of chefe de posto. Thus the only career open to the African is in the local services and minor appointments. According to the United Nations Report on the situation in Angola, in June 1961, 40% of administrative officials were African, and this proportion never fell below 30%;

the Report went on to state, however, "that non-whites were employed mostly in minor positions and that there had been no systematic and determined effort to train Africans to participate in administrative posts".[5] What of the professions? There are extremely few African doctors. In Angola there is - or used to be - one African lawyer; following his defence of the accused in a large-scale political trial at Luanda in 1960, he has been placed under police supervision and has had to reduce his professional activity and give up all political interests.

III.- Apart from those areas classified as colonization centres or collective native property, there is no geographical segregation in Portuguese Africa, neither in the interior nor in the towns. There is nothing like the "Group Areas" that have been set up in South Africa or the black ghettos found in the larger cities of America. The "assimilated" African simply lives where he can afford to; which district he chooses is immaterial. When he visited Luanda some months ago, an American journalist was surprised to find that in the residential districts Europeans and "assimilated" Africans lived door-to-door while the poorer whites encamped in the African shanty town.[6]

The Portuguese authorities have, in fact, made an effort to improve the housing conditions of the Africans inhabiting the larger towns. In 1952 a metropolitan law came into force obliging the provincial public works departments to undertake the construction of low-rent accomodation facilities. In all urban centres special districts have been built for housing the African population (bairros indigenas).[7] Alexander Campbell has written that the African districts in Lourenço Marqués "put Johannesburg to shame".[8]

Such achievements, however laudable, cannot efface the difficult social problems created by the progressive accumulation of a detribalized Lumpenproletariat within the larger towns. The African population of Luanda rose from 18,024 in 1923 to 143,700 in 1955, while the white population increased from 3,709 to 34,250.[9] In Angola's other main towns - Nova Lisboa, Lobito, Malange and

Silva Porto - over 80% of the population is African. The same applies to Lourenço Marqués and Beira in Mozambique. These urban masses live in native districts called senzalas or muceques; they are mostly unemployed and their already wretched conditions of life are not improved by the fact that African proletarians and poor whites "live as close neighbours or even share the privacy of the same home".[10] The Portuguese authorities have, in fact, admitted that "the rate of growth of the black population has far exceeded the highest suitable figure for their progressive, harmonious integration into the tropical Portuguese urban society".[11] This phenomenon is, of course, by no means peculiar to towns in Portuguese Africa. Alexander Campbell speaks of the "disgrace" of Johannesburg's African districts. But in fact this same shaming situation exists in countries that are no longer under colonial administration, and in terms of human squalor the African districts at, for example, Dakar, Lagos and Luanda differ only in degree, not in kind.

That the African shanty towns exist against a backdrop of stylish European districts makes such squalor all the more flagrant and demonstrates that de facto segregation is applied no less rigorously in urban development and town planning than it is in police regulations. Dazzled by the splendour of the European districts, one observer has written that at Luanda the existence of a black population four times as large as the white can quite easily go unnoticed; he adds that at night the town is completely European, for ever since the disturbances in Angola first began the Africans have observed a sort of unofficial curfew.[12] Moreover, in recent years the white sub-proletariat that lives in close contact with the African population has been growing in size and, by a seeming paradox, appears to be widening still further the barrier that divides the two populations.

IV.- Many foreign visitors have been surprised to see, at both Luanda and Lourenco Marqués, the whitest-of-white Portuguese doing the humblest-of-humble jobs - working as dockers, porters and labourers or even begging in the streets.[13] They have like-

wise noted a tendency on the part of this white proletariat to play on colour prejudice when competing with Africans for employment and to push them down to the bottom-most rungs of the social ladder.[14] They appeal to, and arouse, a sense of solidarity; racial discrimination, outlawed by official doctrine, creeps back into practice; and Portuguese employers give work to their metropolitan compatriots rather than to Africans. At a time of unemployment, African servants and chauffeurs have had to hand their jobs over to Europeans.[15]

The question of social integration is, perhaps, in reality no more than a blind issue. Is it really of such great importance that a rich or cultured African be received into white society and that the country's laws and social principles be consciously devoid of any discrimination on grounds of race and colour? For the country is in any case - and no official spokesman would dream of denying it - rigidly stratified into social classes. This is no less true of Metropolitan Portugal than it is of the Overseas Provinces. It is part of the very nature of the Corporative State for there to be one class that directs and commands and another that works, obeys and keeps its mouth shut. In the speech he delivered before the National Assembly on June 30, 1961, Dr. Salazar said, very aptly, that in the Overseas Provinces the only differences between the black and white communities were those "motivated in other societies by diversity of economic levels and personal aptitudes".[16] In other words: in the Overseas Provinces, as indeed in Metropolitan Portugal and any well-ordered society, there must be a top and a bottom. The wealthy and the cultured form the upper class, the poor and uncultured form the lower class. If it turns out that the lower class consists almost entirely of Africans and the upper class of Europeans, that is purely coincidence. It is not a question of racial discrimination but rather of economic and social stratification. That seems to be the Portuguese Government's line of argument; it obviously makes any further discussion of the social assimilation of the African - whether in principle or reality - quite pointless.

Part II

PUBLIC HEALTH

The general organization of the health services is based on a central Health Directorate which exercises administrative and technical control over both the State-run services and the activities of the various voluntary undertakings. There is an Institute of Tropical Medicine attached to the Ministry for Overseas Provinces.

In the Overseas Provinces the Health Directorate controls and supervises State hospitals, mission hospitals, the hospitals of certain industrial and mining companies and a large number of both private and public dispensaries. Africans are entitled to free medical consultation and treatment. The Portuguese authorities are waging a large scale campaign against tuberculosis, malaria, leprosy and trypanosomiasis. Special services and laboratories have been organized and fitted out to combat these diseases.

According to the latest information, there are 226 physicians in Angola and 162 in Mozambique. Seen against the overall population of the Provinces these figures are already low enough; their real value, however, is reduced still further by the fact that roughly one-third of the doctors practise in and around the two capitals, there being 72 doctors in the Luanda District and 60 in the District of Lourenço Marques.[17] It is impossible to give the exact number of hospitals and dispensaries since the only available statistics fail to classify the various institutions in order of size and provide no more than overall figures. According to the United Nations Report on Angola, the province's medical facilities include 2 central hospitals, 13 regional hospitals (doubtless one to a District), 160 clinics and health departments, 32 maternity clinics, 205 public health centres, 5 leper colonies and 1 psychiatric hospital. The Diamang Company operates 6 hospitals, 4 maternity clinics, 64 medical aid posts and 4 ambu-

lances; its medical staff includes 14 physicians.[18] According to James Duffy, in 1954, Mozambique's health services comprised 50 public hospitals, 30 private hospitals and 82 rural health centres.[19]

Three comments are called for regarding the general organization of the health services.

1. According to the United Nations Report the Portuguese Government, in keeping with its attitude of distrust towards international organizations, has refused to allow the World Health Organization to work in Angola. Notwithstanding the territory's extremely limited means in the medical field, Portugal has seen fit to sacrify public health in the interests of its own fine feelings and prestige. However, recent information now indicates that Portugal has finally accepted assistance from the W.H.O. in connection with an anti-malaria programme.[20]

2. The funds allocated by the Overseas Territories to the health services are extremely small when compared with those spent on such pillars of prestige as the army and navy. The 1957 edition of the Statistical Yearbook for the Overseas Provinces gives the following figures:[21]

(in contos)	Angola	Mozambique
Total expenditure on public health	78,151	98,068
Expenditure on staff	44,237	52,597
Other expenditures	33,914	45,471

3. One important statistical element is missing which makes it impossible to weigh up the overall achievement of the Portuguese in the field of public health: the infant mortality rate. In the now famous report which he submitted to the National Assembly in 1947, Captain Henrique de Malta Galvao spoke of "the shockingly high rate of infant mortality".[22] Demographic statistics show that in 1960 the populations of Guinea, Angola and Mozambique were growing at a rate of 1.1% - which is very low for under-

developed countries such as they are.[23] The same statistics give only the infant mortality rate for the "civilized" population, which is but a small minority; no figures are shown for the African population.[24] While it is naturally no easy matter to keep an accurate record of births and deaths in the rural areas, other African countries have managed to surmount similar difficulties and have produced complete statistics. This failure on the part of the Portuguese authorities is as odd as it is regrettable.

Part III

EDUCATION

Three basic principles may be said to govern the organization of the education and instruction intended for the African inhabitants of the Overseas Provinces:

1. There is a complete absence of racial discrimination; blacks, whites and mulattos all attend the same institutions. Quite understandably, however, and for purely practical reasons, the authorities have established an elementary course of instruction specially designed for African schoolchildren.

2. Education is directed toward the cultural assimilation of the African; its first aim is to acquaint him with the Portuguese language and Portuguese culture.

3. A large proportion of the educational facilities provided in the Overseas Provinces are run by the Catholic missions; these co-operate closely with the Portuguese Authorities.

The prominant position held by the religious missions in the Overseas Provinces will be given closer examination in §1 that follows. We shall then procede to study the general structure of the education services (§2) and their achievements to date (§3)

§1. The Position of the Religious Missions in the Overseas Provinces.[25]

I.- The Constitution of the Portuguese Republic proclaim the eminent role of the Catholic missions in the Overseas Provinces:

> Article 140.- The Portuguese Catholic missions overseas and the establishments for training personnel for their services and for those of the Padroado shall, in conformity with the concordata and other agreements concluded with the Holy See, enjoy juridical personality and shall be protected and assisted by the State, as being institutions of education and assistance and instruments of civilization.

The Cardinal-Patriarch of Lisbon called to mind one day that Pope Alexander VI had divided the responsibility for all missionary activity in the two halves of the New World between the two sister nations, Spain and Portual. Though Portugal has always deserved well for her missionary work, her relatations with the Holy See have been stormy on more than one occasion. In the 18th century, for example - and one can go a good deal further back than that - the Marquis of Pombal's anti-clerical policy led to the expulsion of the Jesuits in 1759 and culminated a year later in the broaking off of relations with Rome. In 1834, under the liberal monarchy, anticlericalism flared up anew: the religious Congregations and Orders were dissolved and the Apostolic Nunciate expelled. The revolution of October 5, 1910, marked the beginning of a period of religious persecution and a law enacted on April 20, 1911, proclaimed the separation of the Churches and the State. However, the counter-revolution of May 28, 1926, re-introduced a policy of co-operation which automatically led to a revival of missionary work in the Overseas Provinces.

II.- Today the position of the Catholic missions in the Overseas Territories is governed by three basic texts: the Concordat of May 7, 1940; the Missionary Agreement of the same date; and the Legislative Decree or Missionary Statute of April 5, 1941.

The purpose of the 1940 Concordat was to normalize mutual relations between the Portuguese Republic and the Holy See. Articles XXVI to XXVIII concern the missions and the Overseas Territories.

The substance of these three Articles was taken up and elaborated in the Missionary Agreement signed the same day. The Agreement provides for the division of each of the Overseas Territories into dioceses and missionary districts so delimited as to correspond as near as possible to the administrative divisions within each territory (Article 6). The Government is to be consulted in the appointment of bishops (Article 7); it subsidzes the missions (Article 9) and guarantees to pay the stipends of the higher clergy (Article 12). The missions are to enjoy complete freedom in their educational activities (Article 15).

Legislative Decree No.31,207 of April 5, 1941, on the status of the religious missions, goes a good deal further than the two previous agreements in the matter of collaboration between the missions and the Government. Article 2 states that "the Portuguese Catholic missions are considered to be institutions of imperial utility and to possess an eminently civilizing sense". Under the terms of Article 15, all missionary staff, of whatever rank or sex, are to be of Portuguese nationality. Foreign staff may only be recruited in the event of a shortage of Portuguese missionaries and before any such appointments are made the consent of both the Portuguese Government and the Holy See must be obtained; foreign missionaries must be able to speak and write Portuguese fluently and must state in writing that they submit to the laws and courts of Portugal. Detailed provisions are made with regard to the financing of the missions by the Central Government and the governments of the individual provinces.

Although, according to Article 79, the missions are not State bodies, Article 77 stipulates that the prelates of the missionary districts shall send the Governor a detailed annual report on the work carried on. The most important provisions, however, are to be found in Articles 66 to 76 concerning the educational activities of the Catholic missions. The basic principle is set out as follows:

> Article 66.- Teaching especially intended for natives shall be entirely in the charge of missionary staff and auxiliaries...
>
> Article 68.- Native education will...be essentially nationalist and practical, conducive to the native's being able to obtain means for the maintenance of himself and his family, and will take into account the social state and the psychology of the populations for whom it is intended.
>
> Article 69.- In schools the teaching and use of the Portuguese language is compulsory. Outside the schools the missionaries and auxiliaries will also use Portuguese.

In a speech made on October 22, 1960, during the closing session of a "Missionary Study Congress", Dr. Adriano Moreira gave a clear pricture of the type of collaboration that the State required of the missions:[26]

> The Portuguese missionaries are not foreigners at work in missionary lands; they are Portuguese at work on their homeland soil...(Their activities) will be conducted above all in Africa, where the only missionary lands that are not foreign are the Portuguese Provinces and the only sovereignty that regards itself as bound to catholic morality - the traditional morality of our country - is Portuguese sovereignty...We must, in all urgency, arouse that sense of calling among the people

> of this country so that we may meet the constant roquests voiced by our overseas prelates...Love for one's country finds it noblest expression in the hearts of one's own children. That is why it is necessary to raise the number of newly-called Portuguese missionaries.

The Catholic Church and the Portuguese State are thus claimed to have the same essential interests. Solemn emphasis is placed on the missionary calling of the Portuguese people - a calling, however, that is considered in a fundamentally nationalistic frame of mind. What is required of the overseas clergy entrusted with the mass instruction of the African population is not so much to familiarize their pupils with the values of Christian civilization and morality as to instil into them a knowledge of the Portuguese language and Portuguese culture. It is for this reason that the clergy is to be Portuguese, capable of teaching in Portuguese and of training sound and loyal Portuguese citizens.

In his speech the Minister for Overseas Provinces avoided almost all mention of a problem which has been one of Rome's major concerns for several decades: the training of an indigenous African clergy. As is already known, the policy of "africanizing" the Catholic clergy has produced fast, and excellent, results in the French- and English-speaking countries; and today the Church's indigenous African clergy includes no less than one cardinal, eight archbishops and 25 bishops. Yet, according to the latest figures - provided by a Portuguese prelate - there is not a single indigenous bishop in the whole territory of the Overseas Provinces (excluding the special case of Goa), while even the indigenous priests number no more than fifty or so. The recently created Angolan dioceses of Sa de Bandeira and Malange have been entrusted to Indian bishops.[27] The highest position to have been occupied by an Angolan priest appears to be that of Vicar-General of Luanda; the priest in question - Mgr. Manuel Mendes das Neves - was arrested in 1960 for "subversive intrigue" and is now in prison in Lisbon.

For a country that has been a spearhead of missionary activity for four centuries, this is a somehwat slender harvest.

III.- The non-Catholic religious missions in the Overseas Provinces enjoy complete freedom in the matter of education. They are likewise free to establish themselves where they wish. Naturally, they receive no financial support from the State. According to information given by the Portuguese Government to the United Nations Sub-Committee, in Angola there are some 160,000 pupils attending Protestant mission schools as against 387,000 attending the Catholic schools.[28] Is is evident therefore that the Protestant missions play an important part in the instruction of the African population.

The Protestant mission are run mainly by British, American, Canadian and Swiss staff. Mention has already been made of the precautionary measures taken with regard to the recruitment of supplementary foreign staff for the Catholic missions. One can well imagine, therefore, that the foreign Protestant missionaries are figures of suspicion. As will be shown in a later chapter, the Portuguese authorities have accused various Baptist and Methodist missionaries of being partly responsible for the rebellion that broke out in Angola in March 1961, and several have been expelled from the territory. A recent article in an official publication spoke of "the danger of the Protestant missions"; it accused them of preaching self-determination to the Africans and concluded with the following warning:[29]

> If they wish to remain in the Portuguese Overseas Provinces then they should collaborate with the Portuguese Government and adopt its policy of integration. Portugal is grateful to them for all they have done in social and assistance work, and hopes that it will be enabled to be grateful to them in the future for their political work also.

§2. The General Structure of the Education System

I.- The existence of an elementary course of instruction adapted to the young African's special needs gives an altogether individual stamp to the system of education in the Overseas Provinces. This special measure does not derive from any racial prejudice. It is based on the not unwise belief that normal education - even at primary level - will only benefit children who have already acquired an adequate working knowledge of the Portuguese language. In addition, therefore, to both private and public institutions dispensing primary and secondary education, the Organic Law of June 27, 1953, provided for the establishment of pre-primary schools run by Catholic missions for the benefit of African children.

> Division LXXXII.- (1) In Provinces in which the indigenato system is still in force the staff of Portuguese Catholic missions and their assistance shall be exclusively responsible for the instruction especially devised for Natives in all places where such missions have been established. The State shall remain responsible for such instruction in places where such missions cannot provide it.
> (2) The instruction of Natives in private schools shall be governed by the same general principles as instruction provided by the State.
> (3) The objects of the instruction of the Natives shall be...the full development of all moral and civic qualities and the inculcation of habits of and aptitudes for work, allowance to be made for sex and for the condition and interests of the regional economy.
> (4) In the instruction of Natives the use of native languages shall be authorized as a means of teaching them the Portuguese language.

Further to this the Legislative Decree of May 20, 1954, contained the following:

> Article 6.- The instruction especially intended for indigenous persons shall have as its general purpose the moral, civic, intellectual and physical education prescribed by law and the imparting of work habits and work skills, as determined by the needs of both sexes and by social and regional economic conditions.

The provisions quoted above supplement those contained in Articles 66, 68 and 69 of the Missionary Statute of April 5, 1941. They entrust to the Catholic missions the task of providing the mass of young Africans with the basic knowledge essential to their subsequent cultural assimilation. An Ordinance of July 3, 1953, further stipulated that the mission schools were to be open to all children of school age, irrespective of their religious creed.

This so-called "adaption" or "rudimentary" course of instruction extends over three years. The children are taught to read and write; most of the teaching centres on Portuguese and the basic elements of Christian morality. The proportion of potential schoolchildren who actually receive this rudimentary instruction will be examined in §3.

II.- In contrast to "rudimentary" instruction, which is essentially the preserver of the Catholic missions, primary and secondary education is mainly provided - and in all cases supervised - by the State.

Under the terms of Article 6 of the Legislative Decree of May 20, 1954 (§1 of which has already been quoted):

> §2.- Those indigenous persons who have received "adaption" training or who demonstrate, in the manner prescribed by law, that they do not require such training, shall be assured of admission to public schools under the conditions applicable to other Portuguese nationals.

The repeal of the Decree of May 20, 1954, by that of September 6, 1961, has obviously left this liberal system unchanged. The young African who has acquired the basic attainments taught at the mission school, or who already possesses comparable knowledge, may enter a primary school just as freely as the European child. After four years of primary school he may continue his education at a secondary school; he may attend a high school (liceu) for a further period of seven years or a technical or vocational training college, where the lenght of the course will vary between four and six years. Such are the opportunities open to him on paper. In fact, however, there are certain obstacles which prevent all but a minute number of African children from ever availing themselves of such opportunities. 1) As will be shown in the following paragraph, there are extremely few primary schools outside of urban centres; their low number is quite out of proportion to the size of the school-age population. 2) The age limit for admission to a secondary school is 13; a child who has first had to complete the "rudimentary" course will rarely be able to finish primary school by that age. 3) There is no free secondary education; fees are high in both private and State-run establishments and very few African families can afford to pay them.

There are no institution of higher education in any of the African Provinces. In this connection the only provisions made by the Organic Law of June 27, 1953, are the following:

> Division LXXXI.-...
> (5) In the budget of each of the Overseas Provinces funds shall be appropriated for scholarships to be awarded in order to facilitate attendance at educational institutions in Portugal or in other Provinces if corresponding institutions do not exist in the province granting the scholarships.
> (6) Candidates for admission to an institution of a type which does not exist in the Province of their residence and admission to which is subject to an

examination of aptitude may take the examination (which shall be in writing only) in that Province. The examination papers shall be sent to Portugal to be marked.

In application of this text a few Africans have been sent each year to continue their studies at the metropolitan universities. The Portuguese authorities are currently reported to be examining the possibility of establishing institutions of higher education in Angola and Mozambique.[30]

§3. Results and Achievements in the Field of Education

The United Nations' Demographic Yearbook for 1960 gives the following illiteracy rates for the populations of the three African provinces: 98.9% in Guinea, 97% in Angola and 97.8% in Mozambique.[31] It is seen at a glance that the education services are still far from having any real impact on the mass of the population. What are the details of the situation?

I.- The figures shown in Tables I to IV have been taken from the World Survey of Education published by UNESCO in 1960. Since they relate to the 1954/55 school year, they are unfortunately somewhat out of date. In the pages that follow reference will be made to whatever more recent figures are at hand.

1. The percentage of the school-age population attending an educational establishment is 5.4% in Guinea and 16% in Mozambique (TableI). No figure is available for Angola; but comparison between the overall number of students and the total population would indicate that the percentage is no higher than in Guinea. The vast majority of the students are receiving the "rudimentary" instruction provided by the mission schools (Tables II to IV). It is also to be noted that the illiteracy rate is high even in the non-indigenous population (Table I).

TABLE I

EDUCATION IN GUINEA, ANGOLA AND MOZAMBIQUE

School year: 1954/55.

	Guinea	Angola	Mozambique
Percentage of population:			
Between 5 and 14 years of age	24%	?	25%
Attending an educational institution	1.3%	1.5%	4%
Number of students (total)	7,000	63,271	245,000
Percentage of students receiving primary education	96%	92%	97%
Budget expenditure on education services:			
Total expenditure (contos)	818	17,087	25,700
Expenditure per head of population (escudos)	1,5		4.3
Illiteracy rate:			
In non-indigenous population	45.1%	38,4%	12.7%
" indigenous "	99,7%		

Source: World Survey of Education - published by UNESCO in 1960 - Vol.II, pp.877-886.

TABLE II

PORTUGUESE GUINEA

Summary of School Statistics

School year: 1954/55

Level of Education and Type of Institution	Number of Institutions	Teaching Staff	Students Enrolled
Primary			
Subsidized rural mission schools	99		4,079
Public primary schools	11	?	803
Subsidized primary mission schools	12		1,929
Total:	122		6,811
Secondary - General			
Subsidized liceu	1	?	148
Secondary - Vocational			
Vocational mission schools	4		118

Source: World Survey of Education - p.886.

TABLE III

A N G O L A

Summary of School Statistics

School year: 1954/55

Level of Education and Type of Institution	Number of Institutions	Teaching Staff	Students Enrolled
Primary			
Public primary schools	139	293	10,979
Primary mission schools	66	280	2,565
Private primary schools	66		4,252
"Rudimentary" mission schools	919	1,141	40,502
Total:	1,190	1,714	58,298
Secondary - General			
Public liceus	2	55	1,283
Private "	20	160	1,547
Total:	22	215	2,830
Secondary - Vocational			
Total:	18	136	1,977
Teacher Training			
Normal schools Total:	2	18	166

Source: World Survey of Education - p.878.

TABLE IV

M O Z A M B I Q U E

Summary of School Statistics

School Year: 1954/55

Level of Education and Type of Institution	Number of Institutions	Teaching Staff	Students Enrolled
Primary			
Public primary schools	72	337	8,683
Primary mission schools	57	127	6,797
Private primary school	26	33	1,130
Public "rudimentary" schools	32	33	1,241
"Rudimentary" mission schools	1,594	1,812	219,478
Total:	1,781	2,342	237,389
Secondary - General			
Public liceus	1	79	988
Private "	5	32	
Total:	6	111	988
Secondary - Vocational			
Total:	71	279	6,353
Teacher Training			
Normal schools Total:	4	22	352

Source: World Survey of Education - p.884.

2. Tables II to IV confirm the strong position occupied by the mission schools in primary education, in terms not only of individual establishments but also of enrolments and teaching staff. In Mozambique especially, the public schools are overwhelmingly outnumbered. According to the 1960 edition of the Portuguese Statistical Yearbook, there would seem to have been a notable increase in the number of establishments and enrolments since UNESCO conducted the above-mentioned survey:[32]

	Angola		Mozambique	
	1954/55	1960	1954/55	1960
Number of establishments	1,190	1,732	1,781	3,292
" " students enrolled	58,298	104,027	237,389	418,519

3. The number of students receiving secondary education is small, even when taken in combination with enrolments at technical and teacher-training colleges (Tables II to IV). The liceus at Luanda and LourençoMarques are apparently among the most up-to-date in Africa; but the number of students they accomodate is minute in comparison with the size of the population. Moreover, the UNESCO survey gives overall figures only, i.e., no distinction is made between the various ethnic groups. It must be pointed out, therefore, that the European population of the larger towns alone would in itself be amply sufficient to provide the number of students quoted. Portuguese statistics make no reference to the number of African students attending high schools and other secondary-level institutions. Information on this subject is therefore piecemeal. According to John Gunther, in 1955 there were only 68 Africans receiving secondary education in the whole of Angola.[33] According to the African Labour Survey published by the I.L.O., in 1952 there were no more than 258 African students throughout the entire State-run complex of primary- and secondary-level institutions.[34] One author states that in 1958, again in Angola, no more than six Africans passed out of secondary school and that

only four received scholarships to Portuguese universities.[35] Here again, the Portuguese Statisitcal Yearbook for 1960 indicates that substantial progress has been made since the time of UNSECO survey.

	Angola		Mozambique	
	1954/55	1960	1954/55	1960
Number of public and private liceus	22	37	6	8
Number of students enrolled	2,830	6,462	988	2,550

As before, however, these figures give no indication of the number of African students attending institutions of secondary education.

4. The Portuguese authorities have unquestionably made efforts to develop technical and vocational training facilities. Such training is provided at several different levels. A number of schools providing basic instruction are classified as institutions of primary education. Such is the case with the "rural schools", where the Catholic missions provide the African with elementary instruction in agriculture.[36] It also applies to the so-called "industrial schools"; these are again run by the missions and offer basic training in various skills and trades. The I.L.O.'s African Labour Survey quotes the following data for the year 1954:[37]

Elementary vocational schools:	Guinea	Angola	Mozambique
Run by the State		9	6
" " " missions	4	126	57
Number of students:			
In the State schools		1,464	2,093
" " " mission schools	118	3,138	3,086

With regard to the institutions listed in Tables III and IV under the heading "Secondary Vocational", Portuguese statistics for 1960 reveal an allround increase in numbers:

	Angola		Mozambique	
	1954/55	1960	1954/55	1960
Number of institutions	18	46	71	75
" " students enrolled	1,977	5,382	6,353	10,400

Once again, however, there is no breakdown to show the ratio of African to European enrolements at these institutions.

III.- It has already been seen from Table I that little public money is spent on education in the Overseas Provinces. It is interesting to compare the amounts with those allocated to such prestige items as the army and navy: in 1960, for example, Angola allocated 203,119 and 12,746 contos and Mozambique 247,666 and 63,773 contos for the maintenance of the military and naval forces stationed in their respective territories (see Chapter IV, Table IV).

The figures given in the UNESCO survey relate to 1955. In the more recent edition of the Portuguese statistical yearbooks expenditure on education is merged with various other funds under the general heading of "Administration and Control" (see Chapter IV, Table VI). Consequently the only available information regarding education expenditure is that provided by the 1957 edition of the Statistical Yearbook for the Overseas Provinces (see Chapter IV, Table VII). This shows that in 1957 the Angolan budget provide for an expenditure of 43,959 contos on the education services as against only 17,087 contos in 1955. According to information received by the United Nations Sub-Committee, in 1959 expenditure was further raised to 63,200 contos.[38]

It is obvious that for some years the Portuguese authorities have been making a great effort to adapt the education services

to the needs of the Overseas Provinces. However, much - very much - still remains to be done. In his Washington Post article, Robert H. Eastbrook wrote that in both Angola and Mozambique he had witnessed "feverish activity" to build new schools and recruit more teaching staff.[39] He further reports that the Governor-General of Angola, Gen. Venancio Deslandes, has given the development of the education services priority over all other projects. The immediate aim is to raise the school-attendance rate to 60% by 1965. The author confirms that plans are afoot to establish universities in Angola and Mozambique. It appears, therefore, that the Portuguese authorities have woken up to the fact that in the matter of education the Overseas Provinces have fallen far behind their neighbour countries. So great is the leeway, however, that if they are to catch up at all the local authorities will have to spend considerably more money than has been customary in the past. This new policy is reflected in the second Development Plan which, as we have seen, provides for the allocation of sizable funds for the purpose of expanding and developing the education services.

IV.- There is no doubt that the system of education found in the Overseas Provinces is based on admirable principles: non-segregation, collaboration with the missions and the provisions of special pre-primary instruction adapted to the needs of the African pupil to whom Portuguese is a foreign tongue. However, for the mass of young Africans the opportunity of attending the same schools as their European counterparts has been no more than an impracticable theory. It is essential that it now enter the realm of concrete possibility. The system practised up till now has produced but a minute number of educated Africans. Certain high officials have possibly had at the back of their minds the thought that to provide a generous measure of higher-level education might prove prejudicial to political stability. They have perhaps thought it altogether preferable to leave it to the care of the three metropolitan universities to consummate the cultural assimilation of the chosen few who qualify for higher education. The establishment of a university at Luanda and Lourenço Marqués is

certain to swell the number of African graduates and go some way to hasten their training; it will, in fact, mark a decisive step along the path that the Portuguese Government has - to all appearances - adopted. For until such time as the young African has concrete opportunity to develop his aptitudes, opportunity fully equal to that enjoyed by the young European, assimilation at the social level - as indeed at the political - will remain no more than a slogan devoid of any real substance.

To emblazon cultural assimilation as the prime objective of education is in itself to invite the gravest of misunderstandings. Is it wise, for example, to proclaim that the instruction given to the natives should promote "the full development of civic qualities" (Law of June 27, 1953) and be "essentially nationalist" (Legislative Decree of April 5, 1941) at a time when Africans are growing increasingly conscious of their own innate value? The official policy of the Portuguese Authorities is based on the classic myth that colonization found and filled a political and spiritual vacuum. We now know that before the colonial conquest mature civilizations and highly-developed political systems had grown and flourished in Bantu Africa. Any denial of this cultural bedrock, of this specifically African heritage, is certain to bruise the hyper-sensitized self-consciousness of the modern African. This is not to indulge in sentimental folklorism nor to deny the usefulness of acquainting the African with the Portuguese language, the tenets of Christian morality and the mental attitudes that modern society requires of man. To demand, however, that the African simply shed his own personality and put on another - off the peg - is to invite danger. For out of the colonized peoples' sense of humiliation and the need they feel to prove to all the world the innate individuality of their values, their culture and their personality, have sprung the most violent forms of nationalism.

NOTES

1 Favrod, p.257.

2 Washington Post, February 1962.

3 I.L.O. Report, p.198.

4 Washington Post, loc. cit.

5 U.N. Report, p.68.

6 Christian Science Monitor, September 9, 1961.

7 African Labour Survey, p.425.

8 The Heart of Africa, New York (Knopf) 1954, p-389.

9 The "Muceques", in Portugal I.R., No.3 (1961), p.181.

10 Ibid., p.180.

11 Ibid., p.180.

12 Christian Science Monitor, September 9, 1961.

13 See Gunther, p.576.

14 See Favrod, p.253; Figueiredo, p.117; U.N. Report, p.65.

15 The Guardian, June 28, 1960.

16 Speech of June 30, 1961, reproduced in Portugal I.R., No.3 (1961), p.136.

17 Anuario Angola 1959; Anuario Moçambique 1959.

18 U.N. Report, pp.94-95.

19 Duffy, p.316.

20 U.N. Report, p.97.

21 Anuario Ultramar 1957, p.78.

22 Extract reproduced in The Observer, January 29, 1961.

23 Demographic Yearbook 1960, p.101.

24 Ibid., p.512.

25 Most of the information in this paragraph has been taken from the booklet by Canon Eurico Nogueira Church and State in Portugal, S.N.I. 1959, which also contains the texts of the 1940 Concordat, the Missionary Agreement and the Legislative Decree of April 5, 1941.

26 Speech of October 22, 1960, published in French under the title Actualité des missions by the Agência-geral do ultramar, Lisbon 1960, pp.7, 9, 16 and 17.

27 Eurico Nogueira, op. cit., p.32.

28 U.N. Report, p.90.

29 The Protestant Mission in Angola, Article published in Portugal I.R., No.6 (1961), p.380.

30 Education in the Province of Angola, 1961, in Portugal I.R., No. 1 (1962), p.20.

31 Demographic Yearbook 1960, p.434.

32 Anuario estatistico 1960.

33 Gunther, p.574.

34 African Labour Survey, p.38.

35 S. de Miranda, Education in Angola, in P.C.B., June/July 1961, p.37.

36 African Labour Survey, p.206.

37 Ibid., p.190.

38 U.N. Report, p.92.

39 Washington Post, February 1962.

CHAPTER VI

T H E O R G A N I Z A T I O N O F L A B O U R

As was said at the beginning of Chapter V, in view of its importance the organization of labour in the Overseas Provinces requires to be studied separately. Within the general study of the organization of labour one question that has been repeatedly brought up before a number of international bodies merits special attention, namely the question of forced labour. The present chapter is therefore divided into two parts. Part I reviews the general conditions of work in Portuguese Africa; Part II examines the obligation to work.

Part I

THE GENERAL CONDITIONS OF WORK

§1. The Pattern and Level of Employment

I.- The I.L.O.'s African Labour Survey provides interesting information regarding the level of employment in the various countries of Black Africa.[1] These fall into two distinct groups of territories. 1) In the first group, where the resources are primarily agricultural, wage earners form, in general, only a small percentage of the total active male population. Such is the case in Nigeria (4%), the countries formerly constituting French West Africa (7.9%), Sierre Leona (8.1%), the countries formerly constituting French Equatorial Africa (13.2%) and Ghana (16.4%). These figures tend to suggest that farming is done on small individual properties or collectively by the African communities and that the vast majority of the population consists of independent growers. And in fact, in countries like Ghana, the Ivory Coast and Nigeria - who are among the world's largest

suppliers of tropical produce - the African peasantry produces more than the plantations operated by European companies.
2) In the second group, where the resources are largely, if not preponderantly, mineral in nature, the percentage of wage earners is a great deal higher. Such is the case in the Congo (Leopoldville) (38.3.%), Southern Rhodesia (44.5%) and Northern Rhodesia (48.4.%). These figures are readily explained by the fact that a large part of the African population is employed in the mines.

Angola and Mozambique - no figures are available for Portuguese Guinea - are peculiar in that, though their resources are principally agricultural, their population shows a substantial percentage of wage earners. The I.L.O. Survey gives the following - official - figures for the year 1955 (like those quoted above they relate to the African population only):

	Economically active male population	Wage-earning population	Percentage of Wage-earning population
Angola	1,036,750	400,921	38.6.
Mozambique	1,507,500	542,746	36.0

Taken in conjunction with those already given in Chapter IV (see §2 concerning the factors of production), these figures clearly confirm that in both Provinces, and in sharp contrast to the rest of tropical Africa, a relatively high number of wage earners are employed in agriculture.

The level of employment among the Thonga, the predominant ethnic group in the Lourenço Marqués, Gaza and Inhambane Districts of Mozambique, has been studied in great detail by Professor Marvin Harris, of the University of Columbia.[2] According to the 1950 census figures, the number of male wage earners employed within the Province was 183,294; in addition, 157,000 Mozambique miners were registered at the curator's offices in the Transvaal. Together these figures representad approximately 85% of the Province's active male population. Concurrently, 1,246 men were registered as independent stockbreeders and 23,473 as independent

farmers and growers. These 25,000-odd independents represented no more than 7% of the active male population - an extremely small minority in comparison with the overall number of wage earners.

II.- The information given by official publication with regard to the pattern of employment is extremely patchy.

The only detailed information contained in the I.L.O. Survey is in respect of Mozambique. Here the wage-earning population is divided among the various branches of employment as follows:

Agriculture and forestry	117,912
Mining and quarrying	5,138
Manufacturing industries	29,866
Building and construction	16,882
Transport	9,408
Domestic and other services	58,876

These figures are patently an underestimate, for they add up to less than one-half of the figure given for the overall wage-earning population. One is immediately struck by the large number of workers in domestic service, a typical feature of a colonial economy. The "manufacturing industries" consist mainly of the factories maintained by the plantations. Though the figure given for workers employed is agriculture, that is to say on the plantations, is certainly an underestimate, it is still high in comparison with the figures available for neighbouring countries. It is interesting in this connection to view the figures in respect of agriculture and domestic service against those given in the I.L.O. Survey for the two most populous political complexes of tropical Africa:

	African Population		
	Total	Employed In	
		Agriculture	Domestic Service
Countries formerly constituting French West Africa	18,640,000	73.600	20,500
Nigeria	31,245,000	53,850	24,742

It should be noted that Sena Sugar Estates Ltd, the largest agricultural company in Mozambique, alone employs a permanent staff of 20,000 Africans. This was stated by two of the company's officials in evidence before the I.L.O. Commission of Enquiry.[3]

In Angola, according to a statement by the Head of the Native Affairs Department before the same Commission, about 300,000 workers are employed by private undertakings and a further 20,000 by the public services.[4] Though their total falls far short of the overall figure given in the I.L.O. Survey, namely 400,000 wage earners, let us assume these estimates to be correct. The only industrial concerns of any great size in Angola are Diamang and the Benguela Railway Company; these employ 26,000 and 17,000 Africans respectively.[5] There remain 250,000 wage earners, the vast majority of whom are employed in agriculture. It is on record that the Angola Agriculturual Company and the Cassequel Agricultural Company each employs over 10,000 African workers.[6] These figures may be compared with those quoted by Egerton; during a visit to the Vila Artur de Paiva region (Huila District) in 1955 he estimated that there were 8,500 independent growers and that 3,000 men had been recruited to work on plantations outside the circumscription.[7] The ratio is practically the same as that between the number of wage earners and the active population shown in the table taken from the I.L.O. Survey.

III.- Up till now we have spoken solely in terms of quantity. It is difficult to obtain an accurate picture of the grades and standards of work performed by African labour in the various fields of employment. The Portuguese authorities and company managers proudly pointed out to the I.L.O. Commission that Africans held high positions in both public and private undertakings. Such cases, however, are unquestionably rare. The I.L.O. Survey weighs up the situation as follows;[8]

> In the Portuguese Territories there is no exact information on this subject. However, it would seem that the technical skill of the African workers is

> at the most modest of levels, for these territories are in a relatively low stage of economic development; moreover, there are large numbers of European wage earners, especially in Angola, where Europeans make up about 10% of the total industrial labour force...The policy followed by the public authorities in the Portuguese Territories is, incidentally, intended to ensure that maximum use is made of European employees in all branches of the economy.

The Survey is referring to an Angolan government regulation of June 25, 1952, under which farmers, traders and industrial undertakings employing native workers were to engage European cadres; the ratio prescribed was reported to be one Euroepan foreman or skilled worker for every five Africans.

Reference has already been made (see Chapter V) to the social unrest caused by the fact that recent years have seen the arrival in the African Provinces of large numbers of European Portuguese with little means of support and few or no professional skills; these compete with the Africans for vacant posts in industry, commerce and the administration. In his evidence before the I.L.O. Commission one witness stated: "The coming of the new settlers has made things worse for the Africans because the settlers wanted to live in the towns, and having no skilled professions they took the jobs that the Africans had done for years."[9] The result of this situation is to drive the Africans into the unskilled jobs available in agriculture. The vast majority of African wage earners work as labourers on plantations. They have little hope of ever being able to do anything else.

IV.- Conflicting reports were received by the I.L.O. Commission regarding the state of the labour market. In 1942 the Governor-General of Mozambique issued a circular which spoke of a chronic shortage of labour.[10] In his report of 1947, Capt. Henrique Galvao stated that large-scale emigration into the surrounding countries had depopulated whole regions of Guinea, Angola and Mozambique.[11] In addition to the official recruitment

of Mozambique workers by South African companies, the I.L.O.'s African Labour Survey mentions that there is a strong current of clandestine migration from Mozambique to the Rhodesias and Tanganyika; similarly, large numbers of Angolan workers are said to migrate regularly to the Congo, the Rhodesias and South Africa.[12] The Commission consulted recent surveys by certain Portuguese authors who spoke of a general labour crisis and considered the labour problem to be one of decisive import for the future of the Overseas Provinces.[13]

Contrary to all expectation Mr. Baptista de Sousa, Director of Native Affairs in Angola, maintained before the Commission that the authors in question were misinformed, that there was no longer any labour shortage in Angola or anywhere else in Africa, and that today no undertaking, large or small, had any difficulty in recruiting the labour it needed. He even went as far as to deny that recruitment had ever been a problem.[14] Mr. Pinto da Fonseca, Director of Native Affairs in Mozambique, was less sweeping. He admitted that in his Province the demand for labour slightly outran supply.[15] The representatives of the private companies in Mozambique likewise stated that, in certain areas, local labour was insufficient.[16] All in all it would appear from these statements that the African population of Angola and Mozambique provides sufficient labour to meet current manpower requirements.

The results of this brief survey may be summarized as follows. Wage earners in Angola and Mozambique form an unusually high percentage of the economically active male population. Most of these workers are employed as labourers on plantations. In General there is a slight surplus of labour available for absorption. These general characteristics confirm what has already been ascertained regarding the preponderant position of the large private companies and the minor position of the independent African peasantry in the utilization of the two Provinces' resources. The existence of a sizable African proletariat brings out the essentially colonial nature of the Provinces' economic structure.

§2. The Basic Legislation Governing Labour Regulations

I.- Conditions of work are governed by two mutually exclusive bodies of legislation, one of which concerns indigenous and the other non-indigenous workers. This discrimination has survived the abolition of indigenous status. According to Portuguese Government spokesmen, the social legislation is to be completely recast in pursuance of the reforms of September 6, 1961. At the time of writing, however, the old legislation continues to apply.

The general principles governing native labour are set out in the already familiar triarchy of laws: the Constitution, the Organic Law of 1953 and the Native Statute of 1954.

Article 144 to 147 of the Constitution are devoted to native labour. The first three of these Articles concern the freedom of labour: they will therefore be examined in Part II of the present chapter. Article 147 states:

> The system of native contract labour shall be based on individual liberty and on the right to a fair wage and assistance, the public authorities intervening only for the purpose of regulation.

Division LXXXVI of the Organic Law of June 27, 1953, is virtually a word-for-word reiteration of Articles 144 to 147 of the Constitution. The text of Article 147 is supplemented by a number of more detailed provisions concerning the freedom of labour; their examination will therefore be held over.

The Legislative Decree or Native Statute of May 20, 1954, contains a sub-part entitled "Native Labour", consisting of Articles 32 to 34. These likewise concern the freedom of labour.

What is by far the most important law, however, dates back to before the Constitution. This is the "Native Labour Code for

the Portuguese Colonies in Africa", approved by Decree No.16,199 of December 6, 1928.[17] This code repealed and replaced a Decree of October 14, 1914, on the same subject. It consists of 428 Articles and contains detailed provisions regarding the protection of the natives, recruitment, contracts of employment, wages and the various benefits in kind that native workers are bound to receive. The representative of the Portuguese Government stated before the I.L.O. Commission that a new Labour Code was in course of preparation; as there was no longer any legal basis for racial discrimination this new Code was to apply to all workers.[18]

In its closing Article the Code of 1928 provides that supplementary regulations may be enacted in the individual Overseas Provinces:

> Article 428.- In addition to the cases in which they are expressly authorized by the provisions of this Code to issue regulations, the Governor of the Colonies may issue any regulations and instructions which may be necessary for the better adaption of the Code to the conditions in each colony, provided that the said regulations and instructions shall not be such as to modify or run counter to the principles and provisions of the Code.

The most important of these subsequent regulations are embodied in the Order of September 4, 1930, (Mozambique) and the Legislative Instruments of November 16, 1955, (Guinea) and December 31, 1956, (Angola),

II.- In his policy speech of August 28, 1961, Dr. Adriano Moreira stated that even the most recent of international conventions had failed to surpass the social legislation in force in the Overseas Provinces. "That is why," he said, "we have not had any difficulty in ratifying international conventions and are often ahead of all our accusers."[19] In the report it submitted to the International Labour Conference in 1957, the Committee of Experts on the Application of Conventions and Recommendations drew

a rather different picture.[20] At that time Portugal had ratified only 15 of the 102 International Conventions on Labour. She thus came a long way behind France (which had ratified 66 Conventions), Great Britain (59) and even Spain (31); in fact, the only country to have signed fewer was South Africa. Moreover, the Portuguese Government had ruled that four of the Conventions were not applicable to all Portuguese Territories. With regard to most of the other Conventions, the information provided was insufficient to enable the Committee to ascertain just how far they were being applied. Only one, Convention No.29 concerning forced or compulsory labour, had been accepted unconditionally as applicable in all territories. This attitude is - or was - yet another instance of the incorrigible mistrust shown by the New State towards international institutions.

The report of the I.L.O. Commission of Enquiry reviews at some length the development of the Portuguese attitude towards the international instruments on labour questions.[21] The policy adopted towards the Conventions on Forced Labour will be given closer study in Part II of the present chapter. In 1927 Portugal signed and ratified the 1926 Convention on Slavery. When the I.L.O. drew up the Convention of Forced Labour in 1930, the Government's attitude changed, and it was not until June 1956 that the Convention was finally ratified by Portugal. The Portuguese Government then reversed its policy and since 1957 has shown readiness to co-operate with the International Labour Organisation. By July 1, 1960, it had ratified 23 Conventions in all, 15 of which were actually in force; by June 19, 1961, it had further ratified three other Conventions.[22]

§3. Principal Aspects of the Social Legislation

It is impossible here to review, even briefly, the social legislation applying to the African worker. As already noted, the basis of that legislation is contained in the 1928 Labour Code and the various regulations issued by the authorities in the individual Provinces. The question of wages will be examined separately in a later paragraph. In the pages that follow attention will be concentrated on some of the more important aspects of the legislation common to all three Provinces of continental Africa.

I.- It has already been pointed out that the freedom of association is even more restricted in the Overseas Provinces than in Metropolitan Portugal. The metropolitan legislation on trade unions, which conforms to the principles and structure of the Corporative State, also has effect in the Overseas Territories. This legislation, however, only applies to the European and "assimilated" workers, who alone are authorized to join professional groupings. There are no trade unions for the African workers, nor have African workers any freedom to form trade unions.[23] Will the abolition of native status ultimately lead to the opening up of the professional organizations ot the Africans? In view of the all-too frequent conflict of interests between black and white wage earners, an African member would in any case receive less effective help from such an organization than he could count on from a specifically African trade union. In this connection one immediately calls to mind the rapidity and spontaneity with which trade-unionism has been developing throughout the French- and English-speaking countries of Africa and the recent establishment of large central trade-union bodies run by and for the African workers.

The absence of African trade unions has meant that, apart from the fixing of minimum wages by the administrative authorities,

the terms of each contract of employment are negociated individually, that is to say imposed by the employer. Since there is nobody qualified to represent the workers, the terms of such contracts cannot be negociated through collective bargaining.[24] In his speech of August 28, 1961, Dr. Adriano Moreira stated:[25]

> By Order No.17,782 of June 28, 1960, we put into effect throughout Portuguese Territory the law regulating collective wage agreements, laying down the principle of collective bargaining, which is of the greatest importance in our constitutional doctrine.

Will the fact that the new law is applicable "throughout Portuguese Territory" be in itself sufficient assurance that the African workers - deprived of any representation of their own - will automatically benefit from it? During their visit to Angola and Mozambique the members of the I.L.O. Commission toured a large number of undertakings employing African workers. The Order of June 28, 1960, had then been in force for almost eighteen months. The Commission found that in none of the undertakings had the terms of employment been agreed upon through collective negociation.

II.- The 1928 Labour Code contains excellent provisions regarding the general duties of employers (Article 114), rations, housing and clothing for workers (Articles 231-243), free medical attendance (Articles 244-269), industrial accidents (Articles 270-285), social welfare and the general and vocational instruction of the workers' children (Articles 286-292). To what extent are these rules observed? How far, in fact, do the employers go in providing their African workers with decent and proper living conditions?

It is difficult to know where the truth lies, and certainly impossible to give a straightforward answer. During a visit to the Angola Agricultural Company's plantations at Gabela, which employ several thousands of Africans, Egerton noted that the conditions in which the African workers were housed were excellent; he nontheless thought it well to append the following remark:[26]

> Though we should consider ourselves much overcrowded in such circumstances, the natives prefer it (sic). Dr. J.M. Habig, a Belgian medical man of considerable experience in Africa, points out that a native requires much less oxygen than a European, but that he does need heat.

Egerton uses idyllic terms to describe the conditions of work on the sugarcane plantations run by the Cassequel Company, which employs some 10,000 Africans.[27] In his evidence before the I.L.O. Commission a director of the company made the following statement:[28]

> The social services and other amenities we offer are such that the workers carry out their tasks with enthusiasm and ask if they can come back to work for the company again.

Yet according to the I.L.O. Commission it is on these very same plantations run by the Cassequel Company that working conditions are at their worst.[29] On other occasions the Commission was favourably impressed by the "enlightened and progressive policy" practised by certain undertakings, notably by the Angola Agricultural Company.[30] It adopted "as confirmed by its own observations" the view expressed by the Director of Native Affairs for Mozambique that "the extent to which employers have difficulty in securing labour depends largely on the conditions of employment which they offer and their general reputation for reliability, fairness and humanity".[31]

One cannot, however, simply leave matters to the good intentions of the employers. In the absence of any trade union to wield coercive influence on their behalf, the workers themselves are in no position to ensure that the employers accede to their claims, however just they may be, or even observe the laws in force. Only the public authorities have sufficient means of exerting suitable pressure in this direction. Until quite recently, however, there was no provision for any labour inspectorate functionning as an independent department within the general ad-

ministration of the Overseas Provinces.[32] Under the terms of Articles 8 and 9 of the Native Labour Code, "the protection of native workers" was to be exercised at the provincial level by the Director of Native Affairs and at subordinate levels by the administrators. This was one of the system's gravest failings. The Portuguese Government has recently rectified the situation: Decree No.43,637 of May 2, 1961, inaugurated a labour inspection service in the Overseas Provinces. It provides for one inspector in Guinea, a chief inspector and five inspectors in Angola, and a chief inspector and four inspectors in Mozambique. On December 21, 1961, the Government further adopted Decree No.44,111 providing for the establishment of "Labour, Welfare and Social Action Institutes" in Angola and Mozambique; these have been given extensive powers in the field of labour and social welfare. It is to be hoped that these promising developments bear fruit. It will, however, be some time before these services are properly staffed and in running order. Moreover, the inspectors will find it uphill work to bring about any substantial change of attitude among the employers, who have been left unsupervised for far too long. When the I.L.O. Commission toured Angola and Mozambique in December 1961, these new officials had not yet taken up their posts, or had only just done so, and the answers given by workers questioned at random at the various undertakings visited by the Commission revealed that the inspection of working conditions by the administration was something quite unknown to them.[33]

III.- After Article 114 which lists the duties of the employer, Article 115 of the Native Labour Code lists those of the worker: to obey the employer's orders; to perform his work zealously, to pay compensation for any damage caused intentionally; and "not to leave his employment unless previously authorized by the employer to do so". Under Article 352 of the Code any worker failing to perform these duties is punishable with imprisonment or penal labour for a period of up to one year. Articles 351 to 355 also provide for penal sanctions in respect of certain other offences which the worker may be led to commit during his term of employment.

Here again, it was not until recently that this harsh system was abolished. Following its ratification of the Abolition of Penal Sanctions (Indigenous Workers) Convention of 1955 (No.104), Portugal took the logical step of abrogating Articles 351 to 355 of the Native Labour Code by a Decree of June 30, 1960. It is now laid down that "breaches of contracts of employment of native workers shall only be subject to civil sanctions, which shall be applied in conformity with the legislation in force".

§4. Wages

I.- Examination of the native tax system in Chapter III revealed that, by virtue of Article 197 of the Native Labour Code, minimum wages were calculated on the basis of the amount of head tax payable by the worker employed. This system prevailed until its abolition by Decree No.17,771 of June 11, 1960. This Decree established uniform rules for the calculation of minimum wages throughout Portuguese territory. In each Province the minimum wages are to be fixed by the Provincial Government. Remuneration in excess of such minima is to be agreed upon, as before, through free bargaining. However, in the absence of any trade union organization to defend the interests of the African workers, the employers are perfectly free to decide for themselves the amount of wages and payments in kind due to their employees. As will be seen, the wages paid depend on the "social" policy adopted by the individual employers; both vary considerably.

It must be pointed out that the scale of wages drawn up by the employers make no provision for the worker's family. The various family allowances and benefits awarded to European workers are not payable to Africans.[34]

The 1928 Labour Code also provides for a special system of wage payment in respect of African workers. The basic principle is set out as follows:

> Article 203.- ...The part of the wages paid at the place of employment shall not exceed one-half of the wages, and the remainder shall be placed on deposit for payment to the workers on the expiry of the contract, at the office of the agent of the curator where the said contract was drawn up or ratified.

The "office of the agent of the curator" is, in fact, that of the local representative of the Native Affairs Department, who is none other than the chefe de posto. It is at once apparent that this system provides the administrative authorities with an ideal method of collecting the native head tax and with a permanent incentive to divert whatever labour is available into wage-paid employment. The legislator's original intention may well have been to assure the worker of a certain sum of savings at the end of his contract. It would seem, however, that this system has lent itself to serious abuse. Both the U.N. Sub-Committee and the I.L.O. Commission heard evidence to the effect that, in addition to the tax deductions, various other deductions were made from the workers' accumulated wages. This was sometimes done by the employer himself and even more often by the tradespeople who have set up business on the plantations. As a result of these preposterous deductions the homegoing worker would find himself divested of practically all the money he had been obliged to put aside.[35] It will be recalled that this same system of deferred wages applies to the Mozambique workers employed in the South African mines; here it has the additional advantage of providing the Portuguese authorities with a steady influx of foreign currency.

II.- Portuguese statistics reveal that the wages of the African workers are generally much lower than those paid to Europeans. In Angola, for example, the monthly wage of an agricultural worker varies not only according to his racial affiliation but also from District to District. In 1960, the wages of European and African workers in the Bié District were 1,000 and 150 escudos respectively; in the Moçâmedes District, on the other hand, they were as much as 2,000 and 300 escudos.[36] As is seen, the Africans' wages were less than one-sixth of the Europeans'.

The I.L.O.'s African Labour Survey lists the minimum wage rates for certain categories of workers in Angola for the year 1956. The monthly wage of a worker receiving rations from his employer ranged from 57.50 escudos in agriculture to 84 escudos in industry; the wages of workers receiving no rations ranged between 158 and 300 escudos.[37] These rates were a great deal lower than those which, according to the same survey, were current at that time in neighbouring countries under Belgion and French administration.[38] In Portugal the average wage of an unskilled industrial worker in 1960 was 26 escudos a day, or between 650 and 700 escudos a month.[39]

The report drawn up by the I.L.O. Commission of Enquiry provides useful information regarding the wage rates currently practised in Angola and Mozambique.

Minimum wages are now fixed in the manner prescribed by the Order of June 11, 1960. In Mozambique they have been the subject of two Orders by the Governor-General dated December 3, 1960, and January 26, 1961, respectively.[40] The minimum monthly wage is to range from 90 to 245 escudos, depending on the District and type of employment. In Angola no measures to fix minimum wages have as yet been reported.[41]

As regards real wages it will help to clarify the situation if a distinction is drawn between wages in industry and wages in agriculture.

1. Industrial Undertakings.

The I.L.O. Commission obtained precise information regarding the wages paid by the two largest industrial concerns operating in Portuguese Africa: Diamang and the Benguela Railway Company.

According to the information given by the management and by the workers questioned on the spot, the Diamond Company of Angola pays its unskilled African employees 200 escudos a month plus accomodation, food and clothing.[42] The company employes

26,000 Africans. According to the 1959 edition of the Statistical Yearbook for Angola, a total of 29.217 workers are employed in the mining industry and the total wages paid out to this unskilled labour force amount to 141,294 contos a year.[43] This works out an average monthly wage of 300 escudos per employee. It would appear that this includes payments in kind; this would account for the discrepancy with the figure quoted by Diamang. Assuming that each worker costs the company 400 escudos a month, i.e., 48 contos a year, in wages and payment in kind, we find that the total expenses for 26,000 workers would amount to 124,800 contos. We have already seen that in 1959 the company's net earnings totalled no less than 224,093 contos. Portugal is commonly said to be the employer's paradise; it seems to be no less true of Angola. There are certainly few large companies in the world whose balance-sheets show a similar ratio between their wages bill and their net earnings.

At the Benguela Railway Company the range of wages payable to African workers seems to be extremely elastic. A worker's monthly wage may be anywhere between 300 and 1,600 escudos.[44] The I.L.O. Commission received complaints from lower-grade workers employed in tree-felling for the Company; these were earning between 11 and 14 escudos a day. Though the company employs over 3,000 such workers, it seems to be more generous towards its workshop staff at Nova Lisboa. The Company's General Manager stated that he would re-examine the wage situation of the forestry workers. The overall wages of these 3,000 workers amount to roughly 12,000 contos a year. In 1959, the company registered a net profit of 177,647 contos and it is on record that the net earnings for 1960 were even higher, considerably so in fact. To improve the situation of its least-paid workers would therefore seem to lie well within the company's means.

In State-run undertakings, such as the port of Luanda and the Luanda railway, the Commission found that workers were earning 50 or 100 escudos a month. It appears that the wage situation is particularly bad in the public sector.[45] At the cotton-oil mill of the Angola Cotton Company the minimum wages paid were

around 300 escudos a month, without payment in kind.[46] The Commission visited various industrial undertakings in Mozambique and found monthly wages to be 300 escudos plus food (the Sena Sugar Estates' plantation railway), 650 to 1,100 escudos (Sonarep Oil Refinery), 700 escudos (Matola Industrial Company), 450 escudos (Beira Brewery), 220 escudos plus food (Manica bauxite mines) and 240 escudos (port of Lourenço Marqués).[47]

2. Agricultural Undertakings.

The Head of the Native Affairs Department in Angola stated before the I.L.O. Commission that the average wage level in the Province was 200 escudos a month plus housing, food and clothing.[48] Though it corresponds to the wages paid by Diamang, it would seem that this figure applies mainly to employment in agriculture. The Commission discovered that 200 escudos was in fact the monthly wage paid on the Bom Jesus plantations.[49] The company's representatives stated that payments in kind amounted to another 460 escudos a month for each worker employed. A representative of the Angola Agricultural Company stated that its workers earned an overall wage of 600 escudos a month including payments in kind; the exact amount of cash payment received by the worker was not revealed.[50] It was also reported that certain Africans in the supervisory grades were earning up to 6,000 escudos a month.

The managements of the larger agricultural undertakings in Mozambique spoke of average earnings of from 4 to 5 escudos a day (Boror Company)[51], from 110 to 130 escudos a month (Sena Sugar Estates and the Companhia de Madal)[52], from 205 to 225 escudos a month (Buzi Sugar Company)[53] and 250 escudos a month (Zambezia Company)[54]; in addition to these cash payments the companies provided food, accomodation, clothing and medical attendace. The Commission itself ascertained that workers on the sugar plantations run by the Incomati Agricultural Company were earning 205 escudos a month.[55] Exceptionally high salaries were being earned by certain supervisory-grade African staff, such as the head of the

Zambezia Company's workshops who "has blacks and whites under him" and "earns 10,500 escudos a month".[56] It is obviously difficult to obtain a complete picture of the real level of wages without first attempting to gauge, if only approximately, the value of the various payments made in kind. The only estimates volunteered in this connection were those made by the representatives of Sena Sugar Estates and the Madal Company. They calculated that a worker cost the company between 10 and 13 escudos a day, i.e., between 300 and 350 escudos a month. Cash payments to the worker ranged from 110 to 130 escudos a month. The payments in kind would thus have a value of roughly 200 escudos a month. This conforms to the estimate already made in connection with Diamang. The figures given by the representatives of the various agricultural undertakings in Angola, namely from 400 to 460 escudos, would seem to be a considerable overestimate. No satisfactory explanation was given to the Commission during its visit to the Province.

It can be said therefore that, roughly speaking, the average wages of the mine and plantation workers - in other words the vast majority of the wage-earning population in Angola and Mozambique - are in the region of 200 escudos a month of which only a fraction is paid out at the place of work, the remainder being held over and paid to the worker on expiry of his contract of employment. In addition to the cash payment the worker generally receives free food, accomodation, clothing and medical attendance; the cost of these payments in kind to the employer is roughly 200 escudos per month per worker. It is evident from this that the cost of unskilled labour figures among the minor overheads of the companies operating in the Overseas Provinces. This is, of course, one of the golden rules of any colonial economy.

Part II

THE OBLIGATION TO WORK

We now come to the field in which Portuguese colonial policy has been most frequently and most violently attacked. The question of forced labour recently gave rise to a thorough enquiry by a Commission appointed by the International Labour Organisation. The Commission submitted a lengthy report in March 1962. Before examining this highly important document we shall attempt to place the problem of forced labour in its historical and legal context.

§1. Evolution of Portuguese Policy Regarding the Obligation to Work

Reduced to its fundamentals the question is as follows: May a native be compelled, against his will, to work over a more or less substantial period of time for a public service or a private undertaking?

This question obviously did not arise until after slavery was abolished in Portugal's African Colonies. The first law prohibiting slave traffic from within the Portuguese Territories was enacted in 1836. It took ten years of determined effort by the then Governor of Angola, Pedro Alexandre da Cunha, to overcome the opposition put up by the Portuguese inhabitants of the Colony against the implementation of this law. In 1858 the Prime Minister, Sa da Bandeira, promulgated a decree ordering that slavery in Portuguese Africa was to cease to exist within a period of 20 years. The Liberal Government in Lisbon and the local circles overseas were utterly opposed on this issue and the decree sparked off a violent outburst of anger in Angola. However, the abolitionist movement swelled to such proportions that finally

the administrators and colonists were forced to bow to the situation.[57] 1878 accordingly saw the disappearance of legal slavery. An Act of November 21, 1878, introduced a system of extremely liberal regulations on the conditions of work for natives and virtually removed all forms of compulsory labour.

Following the General Act of the Berlin Conference of 1885 the question of forced labour arose once again but in a different context. The fundamental principle of the Act was to make the "effective" occupation of the African territories the yardstick of the colonizing country's right to be there. Portugal thus found herself compelled to establish tangible authority over vast stretches of territory. Lines of communication had to be opened, roads had to be built and administrative posts established up and down the country. To do this it was necessary to employ local labour, and this local labour was generally reluctant. In 1891 Antonio Enes was sent on a special mission to Mozambique; in the light of his personal experience there he formulated the theory that was to remain the basis of Portugal's colonial administration for several generations. This theory sprang from a paternalistic and authoritarian concept: since its aim was to dignify and civilize, it was for the Portuguese administration to put the native to work, whether he liked it or not, both for his own good and for the good of society.[58] This idealistic view squared perfectly with the interests of the settlers and the large companies that were than beginning to take firm root in the African Provinces. The liberal system of native labour introduced in 1878 was now patently obsolete. In 1898 a committee was set up to draft substitute legislation. It unanimously declared itself in favour of a system that would provide public and private undertakings with "abundant, cheap and resistant labour".[59] The final fruit of the committee's deliberations was the "Native Labour Regulations" approved by a Decree of November 9, 1899. Under the terms of Section 1 all natives were under "a moral and legal obligation" to work, and the public authorities were empowered to force them to do so. The obligation to work applied to all male natives of between 14 and 60 years of age.

Those unable to rpove that their time was entirealy occupied with the cultivation of their own lands were to take up paid employment for a minimum period to be fixed by local regulations. Those failing to take up employment voluntarily could be compelled to do so or be sentenced to a term of penal labour by the authorities. Sections 34 to 38 of the regulations provided that private persons and undertakings might apply to the administrative authorities to procure the labour they needed. The provisions contained in the 1899 regulations were carried over almost intact into the "General Native Labour Regulations for the Portuguese Colonies" approved by a Decree of October 14, 1914. These remained in force until the enactment of the Native Labour Code of 1928.

There is no doubt that this system led to the unbridled exploitation of African labour. Before long, foreign visitors were angrily exposing the conditions under which Angolan natives were forced to work on the coconut plantations in the S. Tomé and Principe Islands, where their existance was one of near slavery. The years 1906 to 1913 saw the publication of the reports on various enquiries conducted by Henry W. Nevinson, William Cadbury and Sir John Harris.[60] In 1924 a private American committee sent Mr. Edward A. Ross, Professor of Sociology at the University of Wisconsin, and Dr. Melville Cramer on a mission of enquiry in Portuguese Africa. They spent almost two months in Angola and Mozambique; they took pains to avoid being intercepted or forstelled by the local authorities and improvised their day-to-day itinerary; they arrived at each village without the least warning and questioned the African inhabitants without the presence of Portuguese witnesses. Professor Ross' final Report on Employment of Native Labour in Portuguese Africa, which he submitted to the Temporary Slavery Commission of the League of Nations in 1925, is still of vital interest today. The Ross Report is a crushing indictment of Portuguese administration, and it is difficult to compress into a few lines the list of abuses noted by the two investigators in the course of their journey. The Report lays particular emphasis on the constant collusion between officials, settlers and private

companies; the direct employment by the administrative authorities of unpaid labour for the upkeep of inordinately lengthy stretches of road; the obligation to work without remuneration for a period between six and eight months in lieu of cash payment of the native head tax; the "sale" of workers to settlers and private companies; the deportation of Africans from Angola to the S. Tomé and Principe Islands, where they are contracted to work for five years without, however, being repatriated; the misappropriation by the chefes de posto of part of the deferred wages paid through them; abuses of authority by the native constabulary (cipaes); and the absence of any form of social service. The Report exposes the collusion between the employers and the authorities to cheat workers of the wages due to them; facsimiles are shown of monthly time cards made out for 36 days! It attacks the fraudulence of written contracts on which the African is compelled to place his thumprint - or else be whipped - without the least idea of what is in the contract. The Report emphasizes that the compulsory labour imposed on the African is not a form of civic duty which he must perform for one or two years and then have done with; it is an obligation which dogs him from adolescense to old age and which he must perform for at least six months every year. In concluding his Report Professor Ross makes, inter alia, the following observation:[61]

> The labour system - virtually State serfdom - which has grown up in the Portuguese Colonies in recent years often claims so much of the natives' time and strenght that they are no longer able to give adequate attention to the production of food in their own gardens and fields.

On September 25, 1926, the Assembly of the League of Nations approved the Slavery Convention. Under the terms of Article 5 "compulsory or forced labour may only be exacted for public purposes". During the final discussion in the plenary meeting of the Assembly of the Portuguese representative expressed his Government's regret that the term "compulsory or forced labour" had not been

clearly defined in the body of the Convention. Portugal nonetheless ratified the Convention on October 4, 1927.

The Native Labour Code of December 6, 1928, which repealed the Decree of October 14, 1914, was the first of a series of laws which, as a body, are still in force today. As already seen, the fundamental attitude behind the labour regulations of 1899 and 1914 was not so much that the native should merely be put to work as that he should be placed at the service of the colonial authorities and the colonial economy. This method of organizing labour was the perfect complement to an economic system tending to concentrate the means of production in the hands of European companies. The African population thus formed a "reserve army" of workers at the permanent disposal of both the Government and the large private companies. To what extent have subsequent provisions in positive law changed this situation?

§2. Positive Law at the Present Time

I.- National Legislation.

As before, the existing legislation will be reviewed in order of precedence, beginning with the Constitution.

The provisions set out under Articles 144 to 147 of the Constitution are a transcription of certain passages contained in the Colonial Act of 1930; they therefore date back to but a short time after the promulgation of the Native Labour Code. The text of Article 147 has already been quoted (see §1 above). Article 144 to 146 read as follows:

> Article 144.- Natives contracted for the service of the State or for administrative bodies shall be paid for their work.

> Article 145.- The following are prohibited:
> 1. Systems whereby the State undertakes to provide native labour to any firms working for their own profit.
> 2. Systems whereby the natives in any territorial area are compelled to work for such firms, whatever the pretext.
>
> Article 146.- The State may only compel the natives to work on public works of general interest to the community, on tasks of which the finished product will belong to them, in the execution of judicial sentences of a penal character or for the discharge of fiscal liabilities.

At first sight it seems remarkable that the Estado Novo should have gone so far as to enshrine the prohibition of compulsory labour in its Political Constitution. Nowhere in the written Constitutions of other States responsible for non-self-governing territories, such as the French Constitutions of September 28, 1946, and October 4, 1958, does one find such explicit and thoroughgoing provisions to safeguard the freedom of the native populations. On reflection it is perhaps justifiable to conclude that in 1930 the freedom of the natives must indeed have been a serious problem for it to have seemed necessary to incorporate such provisions in the Constitution. Was it, perhaps, an implicit acknowledgment that the abuses arraigned by Professor Ross five years before were not entirely make-believe?

Within Section VI (entitled "Native Peoples") of the Organic Law of June 27, 1953, Division LXXXVI contains a number of provisions relating to native labour. Paragraphs I - III are a word-for-word repetition of Articles 144-146 of the Constitution. Paragraph IV begins with a reiteration of Article 147, to which, however, it adds the following:

> Natives shall be free to choose the work best suited to their abilities and to elect whether to work on their account or in the employment of other persons,

> on their own lands or on lands assigned to them for this purpose. The State may, however, direct them to forms of self-employment which are likely to improve their personal and social circumstances.

Although the Legislative Decree of May 20, 1954, has been repealed, Articles 32 to 34 concerning native labour are quoted here for purposes of reference.

> Article 32.- The State shall endeavour to teach the indigenous peoples that work is an indispensable element of progress, but the authorities may not impose labour except in the cases explicitly prescribed by law.
>
> Article 33.- Indigenous persons may freely choose the work they wish to perform, whether for their own or for another's account, on their own land or on land allotted to them for this purpose.
>
> Article 34.- The performance of work for non-indigenous persons shall be subject to freedom of contract and to the right to fair pay and assistance, and shall be supervised by the State through competent authorities.

It is apparent from these texts that the native does not enjoy absolute freedom in the matter of labour. The Organic Law and Article 33 of the Legislative Decree of 1954 both state that the native is free to choose his work; this implies that he must work, and the Constitution merely prohibits certain methods of ensuring he does so. This automatically brings us to the Native Labour Code of 1928, which contains explicit provisions on the very point. The basic principle, which is still in force today, is set out at the very beginning of the Code:

> Article 3.- The Government of the Republic shall neither impose upon the natives of its colonies nor allow others to exact from them any kind of com-

> pulsory or forced labour for private purposes, without prejudice to the discharge of the said natives of the moral obligation incumbent upon them to procure the means of subsistence by labour and thereby to promote the general interests of mankind.

Article 4 states that the Government shall guarantee the natives full liberty to choose the work best suited to their inclinations, whether on their own account on their own land or under contract to serve another. In a subsequent chapter compulsory labour is given the following definition:

> Article 293.- Compulsory, forced or obligatory labour shall mean all work which any native is compelled to perform either by means of threats or violence on the part of the person imposing it upon him or merely by an order from the public authorities.

The Article that follows recalls and supplements thebasic principle formulated in Article 3:

> Article 294.- Forced labour for private purposes shall be absolutely prohibited...
> Sole subsection. Forced labour for public purposes shall be allowed by way of exception in certain urgent und special cases, but only under the conditions laid down in this chapter.

Such are the principles laid down by the Native Labour Code. They are reducible to three basic rules: forced labour for private purposes is prohibited; the native has a moral obligation to work; and, exceptionally, forced labour may be used for public purposes. Their application is governed by various provisions contained both in the Code itself and in local legislation. These will now be examined.

a) Prohibition of Forced Labour for Private Purposes.

It has already been seen that Article 145 of the Constitution prohibits the use of force by the administrative authorities for the purpose of providing private undertakings with native labour. Article 329 of the Native Labour Code elaborates the definition of forced labour already given under Article 293. The definition is broadened to include not only orders and physical violence directed towards the natives themselves but also any coercive pressure exerted on tribal chiefs with a view to their providing private persons with native labour.

The Native Labour Code provides for various disciplinary and penal sanctions in respect of actions in contravention of this prohibition, whether by private persons or by officials. Under the terms of Article 344 any private person committing an act which constitutes the imposition of forced labour as defined in the Code may be fined up to 10,000 escudos or imprisoned for one year. Under the terms of Article 328 any official imposing forced labour on a native for the purpose of serving a private person is liable to temporary retirement for at least one year or to dismissal; if he is guilty of violence, he is also liable to imprisonment.

As a further precautionary measure the Native Labour Code lays down precise rules regarding the recruitment of labour by private undertakings. These rules are set out in Chapter III (Articles 24-86). Recruitment is to be carried out under the supervision and inspection of the administrative authorities. In principle, prior authorization is required in the form of a licence issued by the local authority and valid for a certain period of time and within certain geographical bounds. Articles 36 to 38 lay down the general line of conduct to be followed by the administrative authorities. All local authorities "shall be bound to facilitate the operations of all persons wishing to recruit workers, provided that the persons engaged in this calling procure natives to enter into contracts of employment by lawful

means and in an honest manner" (Article 36). These facilities consist, for example, of pointing out to the recruiting agents places where labour would seem to be in greater supply and of explaining to the natives the advantage of their entering into employment (Article 37). On the other hand, the authorities are absolutely forbidden to recruit workers for employment by private persons, to accompany recruiting agents in their rounds, to provide them with police escort or to accept gratuities from them (Article 38).

b) The Native's Moral Obligation to Work.

This rule is solemnly enshrined in Article 3 of the Native Labour Code. It is echoed in two other Articles:

Article 299, which concerns the requisition of labour for public purposes, contains the following provisions:

> Sole subsection. In employing both the persuasive methods and the coercive measures which they consider necessary, the authorities shall act in every case through the tribal chiefs, and shall allocate work and select workers in agreement with them, giving preference in the selection to the natives whose idleness is most excessive and who can be employed on public works without prejudice to their own economic activities or with comparatively little prejudice thereto.

Article 329, which defines forced labour, goes on to state:

> Sole subsection. ...Advice and other benevolent persuasive measures employed with natives to induce them voluntarily to find work either on their own account or in the employment of a private person...shall not be deemed to be the imposition of forced labour.

It is unfortunately but a short step from persuasive to compulsive measures and from moral to legal obligation, and certain local regulations issued in application of the Native Labour Code appear to lean heavily in this direction.[62]

In Angola the regulations at present in force are set out in Legislative Instrument No.2,797 of December 31, 1956. Whereas the Labour Code simply provides that the administrative authorities may employ natives, if considered "idle", as labour for public purposes, the 1956 regulations proceed to stipulate the conditions to be fulfilled by the native and the proof he must furnish in order not to be considered as "idle". To qualify as a "cultivator, farmer or stockfarmer" and so be exempt from recruitment, natives owning land must cultivate a certain minimum area as defined in the regulations. Precise legal substance is thus given to what was regarded in the Labour Code as being simply a moral obligation.

In Guinea Legislative Instrument No.938 of November 16, 1935, goes even further. It provides for the compulsory registration of all natives employed independently or as wage-earning employees in agriculture, commerce and industry; the registers are to be kept under the supervision of the curator-general and his agents and all natives so registered are obliged to procure employment "for a period of at least eight months in every year". This provision amounts to the imposition of forced labour during two-thirds of the year.

In Mozambique Order No.1,180 of September 4, 1930, simply reaffirms a number of provisions already contained in the Native Labour Code. The Order has since been supplemented by circulars. Those of October 7, 1942, and May 5, 1947, introduced what can only be described as labour conscription. Every male native between the age of 18 and 55 was obliged to prove that he made a living from his own work. The circulars contained detailed provisions defining the conditions to be satisfied by the native and the nature of the evidence he was required to produce as proof

that this independent activity was indeed "sufficient". Natives failing to fulfil such conditions were to be considered as "idle" and recruited to work for a period of six months in the service of the administrative authorities. According to the I.L.O. Report the Governor-General of Mozambique recently cancelled the 1942 and 1947 circulars by a Decision of September 13, 1961.[63]

c) Exceptional Recourse to Forced Labour for Public Purposes.

It has been seen that the Constitution authorizes the administration to impose on natives what is here given the general term of "work for public purposes". Article 146 provides for recourse to compulsion in four instances: recruitment for the execution of public works, tasks from which the natives themselves will ultimately benefit, penal labour, and work for the discharge of fiscal liabilities.

1. Articles 84 to 86 of the Native Labour Code stipulate that only the administrative authorities may recruit the labour required for public works and services. Article 296 lists the limited cases in which the authorities may recruit such labour by requisition: works in the general interest of the community, work necessitated by a state of emergency or public calamity, cleaning and sanitation of villages, maintenance of roads, cleaning and maintenance of springs, wells and reservoirs, etc. Article 297 rules that such works shall always be remunerated. Article 299 states that forced labour shall only be used as a last resort and that the authorities shall only adopt coercive measures in cases where the normal supply of voluntary labour proves inadequate.

2. The provision contained in the Constitution to the effect that natives may be compelled to work on "taks of which the finished product will belong to them" is more than a little vague. Article 296 of the Labour Code lists the cases in which public interest may justify recourse to forced labour. One of the cases is the following:

> 3. ... e) The cultivation of certain lands reserved for natives in the vicinity of their villages, the produce of which accrues exclusively to the persons who cultivate them or in accordance with native custom to a specifiednative community.

It was on this weak legislative foundation that the Portuguese Government built up its system of compulsory cultivation. Reference has already been made to the importance of this system for the nation's economy (see Chapter IV, Part III, §2). It was based on perfectly logical reasoning. The primary objective of the Lisbon Government's economic policy is to develop the production of a certain limited range of raw materials in the Overseas Provinces to meet the requirements of Portuguese trade and industry. Those sectors of production that are considered as having a higher profit yield, such as coffee growing, are largely, if not exclusively, operated by the settlers and private companies with the help of hired labour. Other sectors, including cotton growing, are considered to be less profitable; cotton production is therefore delegated to the independent native farmers. Through extremely heavy pressure, and at the cost of several periods of famine, the Government succeeded in raising Angola's and Mozambique's combined exports of raw cotton from a mere 800 tons in 1926 to 53,300 tons in 1960.

The first of the various legislative measures to expand cotton production in the Overseas Provinces dates back to before the promulgation of the Native Labour Code. A decree of July 28, 1926, provided for the "promotion" of cotton growing by natives in so-called "cotton zones" where natural conditions were considered favourable. Concessions were granted to large companies involving the exclusive right to purchase all native-grown cotton produced within the conceded areas. The legislation of 1926 was replaced by a new decree of August 31, 1946; on November 24, 1955, this gave way to yet another. It is to be noted that in none of these texts was there any explicit ruling that cotton growing by natives was to be compulsory. It was only under the local regu-

lations issued by the Governor-General of Angola and Mozambique that African growers inhabiting the cotton zones found themselves actually compelled to plant and cultivate cotton over certain areas of their land. In Angola, for example, an Order of January 5, 1949, provided that the minimum areas to be grown with cotton by native farmers would be fixed by the Governor-General on the basis of so much for the farmer plus so much for each member of his family.

This highly unpopular system was fortunately brought to an end by Decree No.43,639 of May 2, 1961, repealing the above-mentioned legislation. It was the first to be truly explicit on the matter. It stated, plainly and straightforwardly:[64]

> In the existing cotton zones the growing of cotton shall be carried on freely, under the technical guidance of the Cotton Export Board.

Two recent enactments, dated September 2 and October 4, 1961, have further repealed the local legislation that had previously provided for the compulsory cultivation of rice and castor-oil plants in certain areas of Angola and Mozambique. It would seem therefore that following the liberal reforms of 1961 the whole question of compulsory cultivation is now closed. Until very recently, however, it remained an important factor governing the degree of freedom enjoyed by the African worker in the Overseas Provinces. It is for this reason that reference has been made to it here.

3. Articles 302 to 306 of the Native Labour Code concern penal labour, which they define as "labour to which a native may be sentenced by the competent courts when he commits a crime for which a penalty is provided in the general laws". This provision may be likened to that contained in the Decree of December 29, 1954, stating that in the case of natives prison sentences shall be replaced by labour service for public purposes (see Chapter III, Part II, §1). Article 303 stipulates - most opportunely - that penal labour "shall in all cases be performed on Government or

municipal works"; the purpose of this provision was to put an end to the scandalous practice, frequently indulged in by certain administratos, of "selling" to private undertakings natives sentenced to penal labour.

4. In Guinea, Angola and Mozambique alike, local legislation provides that work for public purposes may be exacted from natives for the discharge of their head tax liability.[65] Tax defaulters may be sentenced to such labour for a period up to 120 days; they receive board but no remuneration. Any refusal to perform the work assigned to them constitutes a criminal offence itself punishable by a term of penal labour. This system forms a perfect combination with the means of tax recovery already available to the authorities by virtue of the fact that deferred wages are payable through their good offices.

II.- International Conventions.[66]

When approving the Slavery Convention in 1926, the Assembly of the League of Nations also adopted a resolution requesting the International Labour Office to pursue its enquiries into certain forms of forced or compulsory labour with a view to preventing the development of conditions of work analogous to slavery. As a result of the work subsequently conducted by the I.L.O., the International Labour Conference adopted, on June 28, 1930, the Forced Labour Convention (No.29). The definition of forced labour set out in Article 2 of the Convention, namely "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily", is very similar to that given in Article 293 of the Native Labour Code promulgated two years earlier. The system laid down by the Convention is again very akin to that already provided for in the Code: the immediate prohibition of forced labour for private companies and individuals and its acceptance for public purposes if only on a temporary basis. It is surprising, therefore, that during the discussion of the draft Convention by the International Labour Conference, Portugal should have taken a stubbornly negative

stand; the Portuguese representative confined himself to saying that Portuguese legislation was in process of achieving the aim sought after and that the question under discussion was a national matter and lay outside the competence of international law. Twenty-six years were to pass before Portugal finally ratified the Forced Labour Convention of 1930.

Meanwhile the I.L.O. continued its studies for the elimination of such forms of indirect compulsion as the prohibition of forced labour had failed to abolish. A world-wide enquiry was conducted into the conditions of labour recruitment in colonial territories. The result of this enquiry was the adoption, on June 20, 1936, of the Recruiting of Indigenous Workers Convention (No. 50). The Convention does not prohibit the recruitment of native labour; it simply lays down certain regulations designed to prevent abuses and the degeneration of such recruitment into conditions of forced labour. It obliges the administrative authorities to observe a certain measure of discretion towards recruitment activities and to ensure that no pressure is brought to bear on native workers either individually or as a body. As before, these provisions are very similar to those already contained in the 1928 Labour Code. Portugal used this similarity as a pretext for informing the Conference, through its delegate, that its overseas nationals were so well treated and safeguarded that they were in no need of any care and attention from an international organization. It consequently refused to ratify the Convention.

Determined to eliminate all vestige of compulsion, the I.L.O. Committee of Experts entered into a thorough examination of the question of long-term employment contracts and of penal sanctions in labour matters. On June 29, 1939, the International Labour Conference adopted two Conventions. The Contracts of Employment (Indigenous Workers) Convention (No.64) lists the basic conditions to be met, in both form and substance, by contracts made for a period of over six months, and leaves it to national legislation to fix the maximum duration of contracts. The Penal Sanctions (Indigenous Workers) Convention (No.65) orders that all penal

sanctions for breach of contract by indigenous workers be abolished progressively and as soon as possible. Neither of these Conventions has been ratified by Portugal.

After the Second World War the International Labour Conference once again turned its attention to conditions of work in dependent territories. In 1947 the Conference adopted five Conventions concerning non-self-governing territories: the Social Policy Convention (No.82), the Labour Standards Convention (No.83), the Right of Association Convention (No.84), the Labour Inspectorates Convention (No.85) and the Contracts of Employment (Indigenous Workers) Convention (No.86). The last-named Convention modified certain provisions contained in Convention No.64; it provided, inter alia, that contracts should have a maximum duration of between one and three years depending on the place of employment. Portugal has ratified none of these Conventions. During the discussion the Portuguese delegate expounded the familiar theme that the native were duty-bound to "work a minimum number of days a year to provide themselves with a minimum level of living".

In 1950 the attitude adopted by the Portuguese Government underwent an appreciable change and in the years that followed became a good deal more conciliatory towards the International Labour Organization. Its candidature for membership of the United Nations had probably some bearing on this welcome development. It hinted that it was contemplating ratification of the Forced Labour Convention(No.29).

In 1954 the International Labour Conference took up once more the question of penal sanctions with a view to modifying the 1939 Convention (No.65). Its work led to the adoption in 1955 of the Abolition of Penal Sanctions (Indigenous Workers) (No.104) which differed from the 1939 Convention in that it provided for the immediate abolition, or at the latest within one year, of all penal sanctions for breaches of contracts of employment. Furthermore, as a result of various resolutions adopted by the United Nations Economist and Social Council and the work carried

out by a committee set up jointly by the United Nations and the International Labour Office, 1956 found the question of forced labour once again on the agenda of the International Labour Conference. The need was felt to rectify certain shortcomings in the 1930 Convention. On June 5, 1957, the Conference adopted the Abolition of Forced Labour Convention (No.105), under the terms of which the signatory parties undertook to abolish forced or compulsory labour and to make no use of it in any form, particularly "as a method of mobilizing and using labour for purposes of economic development". During the discussion Portugal was openly co-operative.

Meanwhile, by a Legislative Decree of June 16, 1956, the Portuguese Government had finally ratified the Forced Labour Convention (No.29) of 1930. Two other Conventions were ratified in 1959, namely the Abolition of Penal Sanctions Convention, 1955 (No.104), and the Abolition of Forced Labour Convention, 1957 (No.105), by Legislative Decrees dated November 30 and July 13 respectively.

At the moment, therefore, Portugal is bound by three of the international conventions examined above. As explained by a number of Portuguese representatives to the I.L.O. Commission of Enquiry, in Portuguese Public Law international conventions are automatically incorperated in the national legislation. By virtue of their ratification the provisions contained in the three above-named Conventions have become, insofar as they are self-executing, an integral part of Portuguese positive law. Consequently, Article 351 to 355 of the Native Labour Code, which relate to penal sanctions, were repealed by the Legislative Decree of June 30, 1960, enacted in application of Convention No.104. The Portuguese Government has also announced the imminent enactment of a new revised version of the Native Labour Code, which will no longer contain those provisions which, up till now, have permitted the partial evasion of the rulings relating to the abolition of forced labour in Conventions Nos.29 and 105.

§3. Application of Positive Law Prior to 1961

I.- It was stated at the beginning of this study that there are three recurring features common to Portuguese legislation. 1) By its very presence in a law a certain provision betrays the existence of a certain problem. There are clear examples of this in the legislation concerning native labour. The fact that it was necessary to write the prohibition of forced labour into the Constitution is no doubt in itself an indication of the powerful tendencies and ingrained habits that had to be overcome. The reason that the Native Labour Code forbids officials to accept gratuities from employers and provides for disciplinary and penal sanctions in the event of improper dealings in recruitment probably lies in the fact that the legislator knew by force of experience how necessary it was to put down such abuses. 2) A certain provision, skilfully knitted into the text, can virtually rob it of, if not all, at least part of its meaning. A classic instance is that of the "obligation to work" enshrined in Article 3 of the Native Labour Code. A principle couched in such a way can be made to mean almost anything; as already mentioned, the Governors-General of the Overseas Provinces have seen in this same Article 3 legal authorization to enforce what has in effect become the general and permanent mobilization of labour. 3) There is often a gulf between the letter of the law and its practical application. It is this aspect of the situation that is to be examined in the pages that follow. In the light of various eye-witness reports an attempt will be made to ascertain the practical results achieved by and through the application of the legal system outlined above. Attention will be confined to the period covered by the legislation in force at the present time, beginning with the promulgation of the Native Labour Code in 1928 and extending to the eve of the enquiry undertaken by the International Labour Organization in 1961.

II.- Basil Davidson writes that in Angola "forced labour remains the flywheel of the country's whole economy", and according

to James Duffy the obligation to work is "the cornerstone of Portuguese native policy".[67] How true is this assertion?

It must be noted at the outset that several observers divide the African wage earners into two categories: the voluntarios or those who contract directly with their employer (which presupposes that they have offered their services spontaneously); and the contratados or those who are contracted through a recruiter or recruiting agent under the supervision of the administrative authorities.[68] The law makes no mention of such a distinction. It does, however, correspond to two situations of fact which is useful to distinguish. It is highly probable that employment statistics refer solely to contratados, since they are the only category of workers falling within the supervision of the administrative authorities. In Angola their number has been estimated at roughly 380,000.[69] It appears that in Mozambique the term shibalos is also used in this sense. It should be pointed out in passing that in Guinea recruitment is virtually non-existent; there are extremely few European-operated undertakings in either industry or agriculture and the majority of the African population is engaged in traditional forms of agriculture.[70]

It is precisely the conditions of recruitment under which the private undertakings and, more especially, individual settlers secure the services of contratados that are subject to the severest criticism. The African Labour Survey conducted by the I.L.O. mentions that the assistance given to recruiters by the administrative authorities is considerably greater in the Portuguese Provinces than in other African territories.[71] Reference has already been made to the fact that the Native Labour Code authorizes the officials to inform recruiters regarding the volume of available labour existing in this or that region, but forbids them to give either moral or physical assistance to recruitment operations. Witnesses have affirmed, however, that the officials show no hesitation in exceeding these bounds and place the whole weight of their authority at the service of the employers. Basil Davidson claims that the Director of Native Affairs in Angola

actually described to him the mechanism of recruitment. The procedure is described as follows[72]: the employer places his order for labour with the Government authorities; the Government decides how much labour shall be allotted to the employer - depending on the current availability of labour in the circumscription in question - and, having countersigned and possibly amended the order, forwards it through the administrator to the chefe de posto, whose job it is to recruit the quota of labour fixed by the Government; the chefe de posto instructs the village chiefs and notables to find the necessary labour; if the number of workers they produce is insufficient, they are punished. According to the same source, quotas are generally allocated by the Government on the basis of 33 workers to every 100 hectares (250 acres) of plantation.[73] The same author, like many before him, describes the wretched conditions of the plantation workers in the S.Tomé & Principe Islands; these are traditionally recruited in Angola and the Cape Verde archipelago. It should be noted in this connection that, according to the I.L.O.'s African Labour Survey, the S. Tomé plantations employ 20,000 full-time workers, roughly half of whom are recruited in Angola and Mozambique.[74]

In the report of his mission to Africa which he submitted to the National Assembly in 1947, Capt. Henrique de Malta Galvao voiced a cry of alarm. "Only the dead," he wrote, "are truly exempt from forced labour."[75] In Angola, he said, the recruitment and distribution of labour had been taken over directly by the Government. The same practice had been adopted in Mozambique. The settlers had become accustomed to the idea that it was part of the administration's responsibility to procure them the labour they required, and the administration tactitly acknowledged that it had certain obligations towards them. It had consequently become a practice for the management of private undertakings to "place orders" for labour with the Native Affairs Department. Though prohibited by the law, this practice was recommended in confidential circulars and other communications issued by the Provincial Governments. Summing up the situation, Galvao stated:

"This system is a disgrace to the administration. Workers are being handed round on a come-and-get-it basis, and yet at the same time we proclaim the purity and godliness of our humanitarianism."

A similar picture was drawn in an unsigned article published in a recent issue of Harper's Magazine.[76] The author, an American businessman who claims to have lived and travelled extensively in Angola for fifteen years, writes that he himself witnessed one instance where a settler placed an order for labour with a local chefe de posto; the latter undertook to provide the 500 workers required for extending the settler's plantation for the honest fee of 200 escudos per head. The same author confirms that the Native Affairs Department has literally taken over the job of supplying labour to the private undertakings operating in Angola. He states that in general only the larger companies send their orders to the central authorities; the owners of the smaller and medium-sized plantations negociate directly with the local offials. The latter have firm control over local labour thanks to the native workbook or caderneta system. Every male native must always have this workbook with him; he can undertake no journey without first having his workbook stamped by the chefe de posto, and must have it signed every day by his employer.

The objection may be raised that the foregoing evidence has been taken from slanted reports and unqualified authors. Further evidence, however, is at hand in the unquestionably objective and scientificallyminded survey carried out by Mr. Marvin Harris, Professor of Anthropology at the University of Columbio, who spent a year in Mozambique during 1956 and 1957.[77] In his study of the migratory movements of the Thonga in the southern region of Mozambique, Professor Harris recalls that under the system established by the native labour regulations of 1899 it was customary for the administrators and chefes de posto to organize nightly roundups of workers required by local employers. This practice is thought to have been the original cause of the migration of workers to the Transvaal. He also points out that

forced labour had been prohibited by a local regulation as long ago as 1906, but that the regulation had had no more practical effect than the Native Labour Code of 1928. In fact, Professor Harris states, the situation today is no different from what it was at the beginning of the century and the law has proved incapable of reforming the illicit practices of the administrative authorities. The author quotes the circulars of October 7, 1942, and May 5, 1947, concerning the employment of "idle" natives. He produces concrete figures to show that the vast majority of the active male population consists of wage earners in the employ of the Transvaal mines and local undertakings. Independent cultivators and stockfarmers form but a small minority - roughly 7%. A Portuguese official of the Mozambique Native Affairs Department, Mr. A. Rita-Ferreira, wrote in answer to Professor Harris article.[78] It is interesting to note that he does not openly contest the facts reported in the article. He merely upholds that there was a migratory movement of workers to the Transvaal prior to the 1899 regulations, and that consequently the forced labour system could not have had the decisive influence on the growth of migration that Professor Harris would attribute to it. He also stresses the efforts made by the local authorities to increase the number of independent African farmers, but admits that many obstacles stand in the way of this policy.

So widespread have the abuses committed by the authorities become that the Government has had to expose, prosecute and openly penalize them. Basil Davidson quotes the case of a chefe de posto in Angola who was dismissed in 1951 for corruption and trading on his influence. In 1954 the Government is reported to have dismissed 30-odd officials in the Nova Lisboa region who had supplied labour against payment.[79] The report of the I.L.O. Commission mentions the case of an administrator in Angola who was charged before the Higher Overseas Disciplinary Board with having abused his authority by recruiting workers for the benefit of private employers.[80] It is an established fact that the excessive powers wielded by the chefes de posto are one of the evils of the Portu-

guese administration system. These officials are mostly recruited through promotion within the administration. They are one-time subordinate officials who, towards the end of their career, have been moved up to the lowliest of the administrative grades. They receive a slender salary - less than the young administrators from the Higher Institute of Overseas Studies - and are left alone with the responsibility for administering an area anywhere between 30 and 60 miles in radius. After the far-off administrator responsible for the circumscription, each chefe de posto is sole lord and master within his allotted area. It is inevitable that some of them succumb to the temptation to make their income commensurate with their powers by placing their authority - against remuneration - at the service of the wealthy settlers and powerful companies established within their areas.

In his 1947 report Capt. Galvao maintained that the mass emigration that had depopulated whole regions of Angola and Mozambique was due to the existence of forced labour. As has been seen, this was also the view of Professor Marvin Harris. Egerton, too, deplores the disruptive influence of recruitment of the African communities and admits that the process of detribalization creates a void that cannot be filled overnight by assimilation.[81] He appears, however, to accept forced labour as a necessary evil since, without it, the European economy could not survive. He puts the artless question: What would happen if this or that coffee plantation was forced to do without the hundred or so agricultural workers that it normally needs - is the planter to go bankrupt merely in order that the law be respected?[82] Figueiredo maintains that the entire economy of Portuguese Africa is geared to compulsory labour: the law may be changed - as it already has been on several occasions - but the facts outweigh the law. Forced labour may be abolished; any such step, however, would produce an unforeseeable chain of reactions and the production of many export commodities would have to be abandoned.[83] It is on this point that the responsibility of the Portuguese administration seems most seriously involved: it has permitted the establishment of a system of production which is so intimately associated with the use of compulsion

that it cannot now foresake such compulsion without jeopardizing the country's economy.

III.- Prior to 1961 the conditions of work in Portuguese Africa had already been the subject of several enquiries by international bodies.

1. As a result of decisions by the Economic and Social Council of the United Nations and the Governing Body of the International Labour Office, an Ad Hoc Committee on Forced Labour was set up on June 27, 1951. It consisted of three eminent public figures appointed jointly by the Secretary-General of the United Nations and the Director-General of the I.L.O. Its task was to gather comprehensive documentary material relating to the use of forced labour throughout the world as a means of either political coercion or economic development. Its enquiry was more specifically concerned with the 16 countries against which allegations had been made by Governments and private organizations. Since allegations regarding the existence of forced labour in its overseas territories had been made by the Government of the Byelorussion S.S.R., the World Federation of Trade Unions and the Anti-Slavery Society, Portugal was one of those countries.[84] The Committee made no on-the-spot investigations and based its judgments on documentary evidence only. It was particularly difficult to gather adequate documentary material regarding those countries, including Portugal, which did not reply to the questionaire sent to all Governments at the beginning of the enquiry. The only documentary evidence on which the Committee was able to base its opinion of labour conditions in Portuguese Africa consisted of the legislation already reviewed in § 2 above; and in the memorandum it submitted in reply to the allegations the Portuguese Government laid shrewd emphasis on the various precautionary provisions contained in that legislation.[85] In other words, the Committee was thoroughly informed regarding the legislation in force but quite ignorant of the material conditions in which that legislation was applied Consequently, the conclusions reached in its final report of May 27, 1953, were extremely discreet. Its main conclusions read as follows:[86]

The Committee finds -

a) that forced or compulsory labour is prohibited in principle by Portuguese legislation, but that there are certain restrictions and exceptions in this legislation which permit the exaction of forced or compulsory labour;

b) that the provisions protecting indigenous workers against unfair methods of recruitment do not, however, exclude a certain amount of compulsion and it is possible that in practice certain pressure is brought to bear upon workers by responsible officials to induce them to conclude contracts of employment offered by recruiting agents.

2. Following a decision taken by the Governing Body of the I.L.O. in June 1955, a Committee on Forced Labour, again composed of three members, was set up in order to analyze documents received by the I.L.O. concerning the use and extent of forced labour throughout the world. This Committee submitted two reports, one in 1956 and another in 1957. On the subject of the Portuguese Overseas Territories it received various memoranda from the Anti-Slavery Society and the International League for the Rights of Man as well as the comments submitted in reply by the Portuguese Government. Since no fresh information had been placed at its disposal, the Committee could do no more than subscribe to the conclusions already reached in 1953 by the Ad Hoc Committee on Forced Labour.

3. Subsequent to Portugal's ratification in 1956 of the Forced Labour Convention, 1930 (No.29), the I.L.O. Committee of Experts on the Application of Conventions and Recommendations duly received reports by the Portuguese Government on its application. The first report was submitted in 1959. In it the Portuguese Government stressed the huminitarian character of the labour legislation in force in the Overseas Provinces and endeavoured to justify, as a principle, the obligation to work. The Committee of Experts requested additional information on certain points and

the Portuguese Government's report was duly received by the I.L.O. in January 1962.

It is seen that none of these international bodies really succeeded in shedding light on the material conditions in which Portuguese legislation on native labour was applied. The mystery was no less intact when the I.L.O. Commission of Enquiry was established in June 1961.

§4. The Work of the Commission of Enquiry Appointed by the International Labour Organisation (1961/62)

I.- As has already been said, on July 13, 1959, Portugal ratified the Abolition of Forced Labour Convention, 1957 (No.105). On February 24, 1961, the Government of Ghana filed a complaint with the International Labour Office to the effect that Portugal was not "securing the effective observance in her African Territories of Mozambique, Angola and Guinea of Convention No.105". The Governing Body of the International Labour Organisation at once requested the two Governments concerned to produce justificatory and explanatory evidence regarding the matter at issue, and by a decision of June 19, 1961, appointed a three-man Commission to examine the complaint. The Commission was composed of Mr. Paul Ruegger (Switzerland), a former Ambassador and Member of the Permanent Court of Arbitration, who was appointed Chairman; Mr. Enrique Armand-Ugon (Uruguay), former Judge of the International Court of Justice and former President of the High Court of Justice of Uruguay; and Mr. Isaac Forster (Senegal), First President of the Supreme Court of the Republic of Senegal and Member of the I.L.O. Committee of Experts.

The Commission held its first session in Geneva on July 11 and 12, 1961. In the absence of any precedent it had to establish its own rules of procedure. As far as was pssible, these were

based on the most commonly accepted rules of judicial procedure. Meanwhile, the Government of the United Arab Republic had associated itself with the complaint. After having invited each of the Governments concerned to produce witnesses and submit any information bearing on the subject, the Commission held its second session, again in Geneva, from Setpember 18 to 30, 1961. This session consisted of 17 sittings in the course of which the Commission, in the presence of the agents and counsels representing the Governments of Ghana and Portugal, examined the written communications and documents submitted to it and heard the witnesses, of whom there were 31, produced by the parties to the complaint. The Commission then flew out to Angola. Its visit to the territory lasted from December 3 to 9. From December 10 to 16, 1961, it visited Mozambique. During its stay in Africa the Commission travelled roughly 2,600 miles in Angola, visiting six of the Territory's fifteen Districts, and 2,800 miles in Mozambique, where it visited four Districts out of nine. The Commission held its third and final session in Geneva from February 1 to 21, 1962. At the close of the session the members of the Commission signed the report embodying the results of their investigations.

II.- The report submitted by the I.L.O. Commission is of the greatest interest. The question of the obligation to work is examined from all aspects in - in its original form - over 400 pages of text. The documents and evidence produced by the parties to the complaint are viewed against a background of first-hand information gathered during the Commission's visit to the Provinces. Prior to any examination of its contents, some observations should perhaps be made to help clarify the exact scope of the report.

1. Ghana's complaint against Portugal was based on a specific grievance: violation of Convention No.105 of 1957. Under the terms of Article 4 (3) of the Convention the signatory parties are to become bound by its provisions after one year has expired following registration by the I.L.O. of its ratification. In the

case of Portugal this preliminary period began on November 23, 1959; the provisions of the Convention thus became obligatory as from November 23, 1960. Since it was bound by the terms of the complaint, the Commission could only take into consideration facts subsequent to that date. Furthermore, in its interpretation of the complainant Government's obvious intention, the Commission was led to consider that the complaint referred to only one form of forced labour, namely that defined by Article 1 (b) of the Convention as "a method of mobilizing and using labour for purposes of economic development". The Commission's frame of reference was thus considerably narrowed.

2. The short period of time that the enquiry was to last saw a rapid succession of unquestionably liberal-minded reforms in Portuguese Africa. It is of little consequence whether these reforms were entirely spontaneous or encouraged by circumstances. The Commission did not fail to take note of them.

3. At various stages in the procedure Portugal's defence was conducted with a great deal of skill and intelligence. A large number of high officials and heads of private concerns from whom the Commission wished to hear statements arrived from Africa and remained at the Commission's disposal throughout its session of September 1961. In contrast, the complainant parties, Ghana and the U.A.R., were almost entirely in default. Their representatives seemed to think that they had only to speak to be believed and the documentary material they submitted consisted, in essence, of a speech by the President of the Republic of Ghana and a few bibliographical references relating to works published several years before the events that they were supposed to establish. If a British non-governmental organization had not put forward, in extremis, a number of witnesses whose evidence was to weigh heavily in the discussions, the whole affair might have proved extremely embarassing to the complainant Governments. It must be admitted in all fairness that the match was uneven; if Portugal had had more diligent and far-seeing opponents she would doubtless have found herself in a much more uncomfortable situation.

4. The members of the Commission spent six days in Angola and six days in Mozambique. It should be pointed out that, to its merit, the Portuguese Government insisted on its having no advance knowledge of the Commision's movements.[87] The genuiness of the information gathered on the spot is therefore beyond doubt. It must, however, be observed - and this is in no way intended as a criticism - that the method of enquiry adopted by the I.L.O. Commiddion was the exact opposite of that adopted by the Ross mission. In 1924 Professor Ross and Dr. Cramer spent almost two months in the two Provinces; they avoided all contact with the authorities and gathered their information at its most direct source, namely in the villages. In accordance with the strictest methods of ethnological research they conducted their enquiry at ground level. In contrast to this, the I.L.O. Commission sought its information at the highest level: among the higher administrative officials and the directors and managers of the larger companies. The only native workers directly questioned by the Commission were those employed on the plantations and in the mines and other undertakings operated by large-scale companies. This approach enabled the Commission to obtain, in the minimum space of time, a bird's eye view of labour conditions in Angola and Mouambique. But a bird's-eye view overlooks many details that are sometimes of no small importance.

III.- The Commission's report, dated February 21, 1962, was published in early March. A certain section of the press claimed, a trifle precipitously, that the report wholly exonerated Portugal. It is not surprising to find that official publications in Lisbon echoed this view.[88] In point of fact, however, the Commission's conclusions were a good deal more discriminating. They included a number of severe criticisms and a recommendation that the Portuguese Government undertake further reform measures. It should be noted that Portugal's Permanent Representative accredited to the I.L.O. stated that his Government accepted the findings of the Commission and that the latter's positive suggestions squared perfectly with the new line of policy adopted by his Government.[89]

Part of the Report is given over to an extremely thorough analysis of Portuguese legislation and the international conventions ratified by Portugal. This aspect of the situation has already been dealt with in §2 above. The most important and original part of the report consists of the examination of the statements made by the witnesses and the on-the-spot information gathered by the Commission itself; at the same time the organization of labour in Portuguese Africa is scrutinized from all aspects. Some of these aspects, such as the level of wages, conditions of work and inspection, have already been reviewed earlier in this chapter and require no further mention. Similarly, questions such as compulsory cultivation and penal sanctions for breach of employment contract, which have been the subject of recent legislation already referred to and now no longer apply, will also be passed over. It has likewise been established that the recruitment of Africans in the continental Provinces for work on the plantations in the S. Tomé and Principe Islands now belongs to the comparatively distant past and has not been practised for ten years at least.[90]

In the pages that follow attention will be confined to the evidence relating to the obligation to work contained in the statements of witnesses before the Commission and in the information gathered by its members during their visit to the territories in question.

IV.- As regards the general policy of the local authorities in labour matters, revealing information was given by three witnesses whose impartiality was beyond question, for they were neither Africans nor Portuguese but three Baptist missionaries of British nationality with long years of experience in Angola. They were particularly familiar with the Congo District, where they had worked at mission stations at Sao Salvador, Bembe and Quibocolo. The Rev. Max. W. Hancock had lived there from 1925 to 1958, the Rev. Clifford J. Parsons from 1940 to October 1959, and the Rev. William J. Grenfell from October 1933 to July 21, 1961. All three stated that they had no prejudice against the Portuguese

authorities and had always maintained courteous and often even friendly relations with them.[91] Mr. Hancock stated that the Portuguese legislation was excellent but that its provisions for the protection of the worker were too easily averted.[92] He and his two colleagues all pointed to the complete absence of any inspectorate or, if not absence, its utter inefficacy. They emphasized the abuses committed in the lower ranks of the administration and cited individual cases of malpractice and corruption on the part of the chefes de posto.[93] All three acknowledged that in recent years the administrative authorities had made laudable efforts to remove these abuses and to improve the situation of the African workers; unfortunately, however, these efforts were lamed by strong pressure from the settlers and by the need to ensure an adequate supply of labour to the plantations.[94] Mr. Hancock's down-to-earth summary of the situation was as follows:[95]

> Real, definite and concrete attempts were made by the Government to institute reforms. These were made with tremendous opposition from the planters, and government officials who had the welfare of the African people at heart were compelled by the very powerful coffee interests either to modify their actions or else get out.

V.- As regards the rule concerning the obligation to work and the abuses committed in its application, the Directors of Native Affairs in the three Provinces were asked to explain the local legislation already reviewed earlier in this chapter. As was seen, the Circulars of 1942 and 1947 applying in Mozambique have since been cancelled. In Angola, however, the Regulations of December 31, 1956, are still in force; the same applies in Guinea to the Regulations of November 16, 1935. It was also seen that these regulations, which were in effect based on the "presumptive idleness" of the African, virtually empowered the authorities to conscript labour. The high officials responsible for their application were doubtless concerned to play down their significance. The Director of Native Affairs in Guinea stated

that the 1935 Regulations had fallen into abeyance. His collegue in Angola upheld that the census that was conducted every year was solely for the purpose of noting down each African's preference regarding the kind of work he would like to do and that in any case such provisions in the Regulations as were contrary to Convention No. 105 on forced labour had automatically ceased to apply by virtue of Portugal's ratification of the Convention.[96] As will be seen subsequently, the Commission did not find these explanations to be sufficiently reassuring. It should be noted in passing that the representative of the Bank of Angola felt obliged to express his opinion regarding the moral obligation to work. Everyone, he said, should serve his society by his work; this included the Africans no less than anyone else. Moreover, co-operation between the blacks and the whites was essential to the economic development of Angola.[97] To these high-sounding moral principles we would simply add the following comment: according to its balance-sheet of December 31, 1959, the Bank of Angola, which has a capital of 200,000 contos, made a net profit of no less than 58,858 contos.[98] "Co-operation between the blacks and the whites " would indeed seem to be profitable - at least for the latter.

VI.- The most important restriction on the freedom of labour sanctioned by the Portuguese Constitution consists in the power to requisition labour for public works of general interest to the community. The Heads of the Native Affairs Departments in the three Provinces maintained that this power was no longer exercised and that today the administrative authorities and private undertakings employed only voluntary workers.[99] Unfortunately, however, this optimistic appraisal of the situation conflicts with a good deal of detailed evidence gathered on the spot.

First, there is the evidence of the three Baptist missionaries. These had seen the chefes de posto recruiting in the villages the workers required for road maintenance. If male labour was not available the work was done by the women and children. Mr. Hancock quoted the example of the road from Sao Salvador to Maquely do

Zombo where for over thirty years, right up to 1958, the year of his departure, he had seen women and children at work.[100] Mr. Parsons stated that each village was responsible for the upkeep of a certain stretch of road; children of ten years and upwards were employed in the work, for which there was no remuneration.[101] Mr. Grenfell handed the Commission a number of photographs, which he had taken in September 1960, of women working on a public works site in the Maquela do Zombo region.[102]

The information gathered by the members of the Commission during their visits in the territories corroborated this evidence. At the ports of Luanda and Lobito and at the railway station in Luanda (it will be recalled that the Luanda-Malange railway is State-operated), the workers questioned all stated that they had been recruited against their wishes and on the orders of the local administrator or chefe de posto. They had been compelled to contract for a period of from 9 to 12 months and were paid extremely low wages. Many had come from regions lying several hundreds of miles from their place of employment.[103] The heads of the public services involved were somewhat embarrassed by the questions put to them and stated that a circular had recently been issued which prohibited all future recourse to the requisitioning of labour. In Mozambique the Commission questioned at random workers employed on widening the road between Lourenço Marqués and Ressano Garcia; they all stated that they came from the Inhambane District and had been compelled to leave because their respective chefes de posto had ordered them to sign a 12-month contract of employment with the construction firm in question.[104]

VII.- Portuguese Law admits of no exception to the rule that work in private undertakings shall be voluntary and even goes as far as to provide for sanctions against infringement of that rule. The high officials who gave evidence before the Commission stated that their subordinates would never allow themselves to assist recruiters beyond the bounds laid down by the Native Labour Code.

This statement conflicts with events which, according to his evidence, Mr. Hancock witnessed personally in the Bembe region, not once but every year right up to his departure in 1958.[105] The coffee planters, who abound in that particular region, would seek out the local chefe de posto and inform him of how many workers they required. The chefe de posto would then instruct his cipaios to raid the neighbouring villages for labour. The men they rounded up were then taken to the posto and divided up into batches according to the planters' requirements. These workers were contracted for a period of 12 months. When they had served that period they were, in theory, to be left in peace by the authorities during the 12 months that followed. But in times of labour shortage it sometimes happened that a man could snatch only one or two weeks' respite before being contrated for another 12 months on another plantation. Mr. Parsons was witness to similar occurences.[106] He stated that the Africans' lot varied with the ups and downs of the economy. During the stagnant period from 1940 to 1945 the authorities could allow themselves the moral luxury of respecting the freedom of labour. In 1945 the coffee-growing areas began to expand considerably and labour requirements naturally rose. It was from then on that forced recruitment became current practice in the Congo District. It was based, Mr. Parson said, on the principle that each village was to supply the plantations with a given quota of labour. The number of workers demanded had to report to the posto on a given date. The chief of the village was held responsible for seeing that they did so. Since he stood to be beaten on the palms of the hands if they did not, the chief would use every possible means of ensuring that the demand was duly met. The contract was basically for six months but could be extended if the employer found himself shorthanded. The witness stated on several occasions that this situation still existed at the time of his departure from Angola in October 1959. The cases quoted by Mr. Grenfell were still more recent.[107] In March 1961, in the Damba region, children had had to leave school and weed coffee gardens under contract. One worker, a mason, fled in order to avoid having to

work in the local copper mines; his father was arrested and compelled to work for one year in the docks at Luanda. He may quite well have been one of the dockworkers questioned by the Commission during its visit to Luanda. The witness emphasized the anger caused among the African population by the recruitment of children for compulsory labour.

Such are the practices that have been but recently observed, de visu, by three witnesses whose honesty and impartiality are beyond question.

The Commission several times questioned workers employed on plantations, both in Angola and Mozambique. Many of them stated that they had taken up their employment of their own free will; others, however, said that they had come "on the orders of the authorities". When it visited the Cassequel Agricultural Company's plantations near Lobito, the Commission perceived that the workers were being prevented from speaking freely. On the other hand, the plantation workers employed by the Angola Agricultural Company and the large agricultural companies in Mozambique said that they were satisfied and made no mention of any compulsion. Workers on the coconut plantations of the Boror Company and the tea plantations of the Zambezia Company stated that they had offered their labour spontaneously and had not been recruited. In contrast, a number of workers in the employment of Sena Sugar Estates said that they had come because they had been ordered to by the native or administrative authorities.[108] The Commission ascertained that the methods employed by the Benguela Railway Company in the hiring of labour were perfectly proper. It found the propriety of the methods employed by the Diamond Company of Angola to be a good deal more dubious. A month before the Commission arrived in Angola the Governor of the District of Luanda issued an Order instructing the authorities to discontinue certain activities which "may be regarded as compelling natives to work" and "may appear to be contrary to, or result in contravention of, the legal provisions concerning freedom of labour". It stipulated that in future the Diamond Company was to use its

own initiative to recruit labour - which implies that it had previously been greatly assisted by the authorities. At the same time the Governor of the District of Malange informed the Native Affairs Department that he had instructed the authorities within his area to withdraw what he euphemistically termed as "certain facilities" previously granted with regard to Diamang's recruitment operations. The Orders of the District Governors of Luanda and Malange were the result of a confidential letter from the Directorate of Native Affairs informing them of an Order by the Governor-General dated July 26, 1961. The text of this Order was as follows:[110]

> The Diamond Company is to be informed to establish its own private system of recruiting labour to meet its requirements, without any intervention by the administrative authorities. The system is to start functioning forthwith.

This new policy on the part of the central authorities put an end to a system which, as the Governor of the District of Malange himself observed, had been "in force for 40 years". This sudden conversion to respect for the freedom of labour - and respect for the law - was not perhaps entirely unconnected with the enquiry proceedings, which at that time had just begun. When the Commission visited Diamang's work sites, the local management explained the system of recruitment that had just been abolished. The company had merely had to inform the authorities of its manpower requirements; the authorities would then break down the figure and fix the amount of labour to be supplied from within the area of each local chief (soba): "If the men were not produced, the chefe do posto would ask for an explanation and invite the soba to provide them."[111] The Commission visited three mining sites and questioned a number of workers. The skilled workers all stated that they had offered their services spontaneously. The recruited workers, on the other hand, seemed highly discontent at having had to go and work in the mine for 18 months on the orders of their chief.[112]

It is on record, therefore, that in the course of its fleeting tour of Portuguese Africa the I.L.O. Commission of Enquiry found that there had been flagrant intervention by the administrative authorities in the recruitment operations of the largest industrial concern in Angola. In several agricultural undertakings, the Cassequel Agricultural Company especially, the Commission found the manner of recruitment suspect. On the other hand, the Commission was satisfied that on a great majority of the plantations the workers had offered their services spontaneously and had been subjected to no form of compulsion. Is the information gathered by the Commission inconsistent with the evidence given by the three Baptist missionaries? The answer would seem to be No - provided that due allowance is made for factors of time and place. 1) It has already been pointed out that in the north of Angola, and particularly in the Congo District, the vast majority of the undertakings are small or middling in size. The evidence given by the Rev. Hancock, Parsons and Grenfell relates precisly to this region. South of the Cuanza river the plantations are generally owned by large companies. Both in Angola and Mozambique the Commission confined its visits to undertakings owned and run by such companies. It is highly probable that, whereas the wages, material benefits and social amenities offered by those companies are such as to attract an adequate supply of voluntary labour and to make any recourse to compulsion unnecessary, the independent settlers, with much more limited means at their disposal, need strong backing from the administrative authorities to secure sufficient numbers of workers. 2) Passing reference has already been made to one instance where the mere announcement that enquiry proceedings were underway led the various administrative authorities to revise their policy in matters of recruitment. It is not impossible that a number of Orders and circulars similar to those concerning Diamang - but more discretely distributed - were issued in respect of other undertakings. Finally, as the witnesses themselves affirmed, there is no doubt that in recent years - and certainly before the opening of the enquiry - the Portuguese authorities have changed

their attitude considerably and have relaxed much of their coercive hold over the African worker.

VIII.- The conclusion reached by the Commission of Enquiry are of the greatest interest. They may be briefly summarized as follows:[113]

1. With regard to the Law, the Commission noted that substantial changes had recently been made in the legislation and that several international conventions had been ratified. It nontheless recommended that the legislation be still further cleansed of certain provisions such as those relating to the moral obligation to work, even if presented as being no more than a simple moral duty. It noted the acknowledged intention of the Portuguese Government to draw up a new Labour Code. It further noted that Portugal was still a long way behind most other European States in the ratification of international conventions relating to labour.

2. With regard to facts, the Commission recalled that even after the Forced Labour Convention (No.105) came into effect the administration continued to use its authority for purposes of labour recruitment. It had found flagrant cases in which African workers had been compelled to take up employment, both in oublic undertakings, such as the Lunada railway and the ports of Luanda and Lobito, and in private undertakings, such as the Diamond Company of Angola. It noted that instructions had recently been issued to officials to put an end to this practice. It further noted that the workers employed in the large plantations seemed, in general, to be engaged in an equitable manner.

3. The Commission emphasized that the policy to which the Portuguese Government seemed to be openly committed "cannot be made fully effective in a context of social and cultural backwardness in which for many people freedom and compulsion are equally impalpable". Economic, social and cultural pressure, it went on, may be such that people "do what they are told to do simply because they are told to do so". Under such conditions it is impossible to say whether their labour is the result of

compulsion for so incapable are they of making any truly conscious choice that recourse to compulsion is unnecessary.

> In certain places, and particularly at the Cassequel Sugar Plantations, the Commission is satisfied that this is the real position and the bulk of the working force is at so backward a stage of development that freedom and economic opportunity belong to a world so wholly beyond their grasp that the question whether the labour exacted from them is forced labour becomes virtually meaningless.[114]

The Commission went on to point out that, though Portugal might be justly proud of the absence in the Provinces of any legal discrimination on grounds of race, there were in fact very few Africans in positions of responsibility either in the government or in private enterprise; and it concluded by stressing the urgent need for a substantial advance in the training of African cadres.

The Portuguese Government has announced that it would bow to the findings of the Commission and accept its recommendations. Speaking before the Legislative Conncil of Angola on May 2, 1961, the Minister for the Overseas Provinces, Dr. Adriano Moreira, stated that his Government had taken up arms for social justice, which justice was "inseparable from the recognition of each human person's rights and dignity".[115] He recalled the recent repeal of the legislation concerning compulsory cotton growing and affirmed his wish to "remove the acute causes of social unrest which our enemies are exploiting and which weaken our people's courage and lower the dignity of all". As has been pointed out on several occasions, the last few years have unquestionable marked a turning-point in Portuguese colonial policy. Has it been caused through pressure of circumstances, the sometimes over inquisitive interest shown by certain international bodies in the only surviving Colonial Empire, a return to Portugal's undeniable vocation for achieving understanding with the coloured peoples or

the personal influence of a young and uncommonly discerning and energetic Minister? The reason is of no consequence; what matters is that the change has come. But will this new policy prove powerful enough to overcome the various factors of resistance and obstruction that will inevitably tend to drain it of its empetus? Without in any way minimizing the achievement to date, the I.L.O. Commission emphasized that a great deal remained to be done before Portuguese Africa could hope for any lasting measure of stability. It is on this note that we close the present chapter and, with it, our survey of the economic and social situation of the African populations.

In 1959 James Duffy wrote:[116]

> So long as Portugal's native policy is founded on the assumption that Angola and Mozambique are to be white men's Colonies, it will fail to serve the legitimate interests of some ten million Africans.

The Portuguese would no doubt reply that Angola and Mozambique belong jointly to the whites and the blacks. The real point at issue, however, is precisely whether the old concept of "Colonies for utilization and settlement" is still valid. An indication has already been given of the extent to which the economic structure of the Provinces is founded on and governed by the interests of a "master" economy, represented locally by large private companies and the Portuguese settlers. The African labour force placed at the disposal of the industrial and agricultural undertakings constitutes an essential factor in that economy. Any diversion of this labour force into independent activities, any measure to make African agriculture the true centre of gravity of the economy, any transfer of investments and government assistance into the African sector - any of these steps would presuppose a complete and utter change of policy on the part of the Portuguese authorities. Doubtless, the abolition of native status, the social investments provided for under the second Development Plan

and the relaxation of coercive methods in the organization of labour are suggestive and encouraging symptoms. But as long as the economy and administration continue to be controlled from Lisbon, it is questionable whether any substantial advance in this direction will be possible. For there is nothing to indicate that the Portuguese Government is at all determined, or even willing, to undertake that imperative change of policy.

N O T E S

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3 I.L.O. Records, IX, p.20.
4 I.L.O. Report, p.181.
5 Ibid., pp.192 and 196.
6 I.L.O. Records, VII, pp.2 and 33.
7 Egerton, p.208.
8 African Labour Survey, p.116; see also I.L.O. Report, p.246.
9 Written statement by Mr. Kambandu, in I.L.O. Records, p.5.
10 I.L.O. Report, p.82.
11 Extract published in The Observer, January 29, 1961.
12 African Labour Survey, pp.135-136.
13 I.L.O. Report, p.182.
14 I.L.O. Records, XVI, pp.31-32 and 39-40.
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19 Portugal I.R., No.5 (1961), p.290.
20 African Labour Survey, p.693, Appendix III, Table 36.
21 I.L.O. Report, Chapter 8, pp.43-66.
22 U.N. Report, p.84.
23 African Labour Survey, pp.229 and 237.
24 Ibid., p.270.
25 Portugal I.R., No.5 (1961), p.290.
26 Egerton, p.186.
27 Egerton, p.192.
28 I.L.O. Records, VII, p.39.
29 I.L.O. Report, pp.186, 240 and 245.
30 Ibid., p.244.
31 Ibid., p.243.
32 African Labour Survey, pp.465 and 473.

33 I.L.O. Report, pp.223-224.
34 African Labour Survey, p.278.
35 U.N. Report, p.82; I.L.O. Report, pp.209-210.
36 Anuario Angola 1960, pp.57-58; see also I.L.O. Report, p.215.
37 African Labour Survey, p.687, Table 28.
38 Ibid., p.686, Tables 26 and 27.
39 Statistical Yearbook 1960, p.443.
40 I.L.O. Report, p.99.
41 Ibid., pp.99 and 211.
42 Ibid., pp.195, 211 and 214.
43 Anuario Angola 1959, p.101.
44 I.L.O. Report, pp.198 and 214.
45 Ibid., p.215.
46 Ibid., p.215.
47 Ibid., pp.216-217.
48 Ibid., p.211.
49 Ibid., p.215.
50 Ibid., p.211.
51 I.L.O. Records, VIII, p.41.
52 Ibid., IX, p.27; X, pp.7 and 10.
53 Ibid., VIII, p.21.
54 Ibid., IX, p.7.
55 I.L.O. Report, p.215.
56 I.L.O. Records, IX, p.7.
57 Duffy, pp.76-78.
58 Duffy, pp.236-239.
59 Quoted in I.L.O. Report, p.74.
60 Davidson, pp.190-191.
61 Ross, p.58.
62 For a detailed analysis of this local legislation see I.L.O. Report, pp.77-86.
63 I.L.O. Report, p.85.
64 Extracts from this Decree are reproduced in I.L.O. Report, pp.93-94.
65 For details of these regulations see I.L.O. Report, p.98.

66 On the work of the I.L.O. prior to 1939 see Report of Ad Hoc Committee, p.137 et seq., where the texts of the Conventions are also given; see also I.L.O. Report, Ch.8, pp.43-66.

67 Davidson, p.197; Duffy, p.317.

68 Davidson, p.195; Duffy, p.320.

69 Davidson, p.196; Gunther, p.585.

70 African Labour Survey, p.311.

71 Ibid., p.311.

72 Davidson, p.202.

73 Davidson, p.210.

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79 Davidson, pp.207-208.

80 I.L.O. Report, p.105.

81 Egerton, p.256.

82 Egerton, p.265.

83 Figueiredo, p.102.

84 See Report of Ad Hoc Committee, pp.317-320.

85 For the text of these memoranda see Report of Ad Hoc Committee pp.331-334.

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87 I.L.O. Report, p.22.

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90 I.L.O. Report, p.200.

91 I.L.O. Records, XV, p.45; XVI, pp.3 and 17.

92 Ibid., XV, pp.45, 48, 55 and 57.

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98 Anuario Angola 1959, p.266.
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100 I.L.O. Records, XV, pp.47, 50 and 51.
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104 Ibid., p.161.
105 I.L.O. Records, XV, pp.47-48 and 51-52.
106 Ibid., XVI, pp.2, 6, 7, 10 and 11.
107 Ibid., XVI, pp.13-14 and 18.
108 I.L.O. Report, pp.154 and 186-189.
109 Ibid., pp.192-198.
110 These decisions and confidential letters are reproduced in full in I.L.O. Report, pp.106-107.
111 I.L.O. Report, p.194.
112 Ibid., p.195.
113 Ibid., pp.227-247.
114 Ibid., pp.245-246.
115 Speech of May 2, 1961, published by S.N.I. (French translation), p.13.
116 Duffy, p.328.

CHAPTER VII

THE FORCES OF RESISTANCE

In the preceding chapters an attempt has been made to outline the political and economic organization of the Portuguese Provinces of continental Africa. It now remains to examine the results. Until recently eminent political figures delighted in contrasting the extravagances of local nationalism in other regions of Africa and the exemplary peace and calm that reigned among the native populations of the Portuguese Provinces. On May 23, 1959, Dr. Salazar stated:[1]

> By what miracle is there peace from Cape Verde to Timor, and why is it that all can see for themselves the tranquil life of the populations? How is it that we can traverse all Angola or Mozambique with no other aid than the goodwill of the native, his brotherly help, fundamentally the fact that he feels himself to be Portuguese? Why does the native of Angola or Mozambique when abroad say that he is Portuguese?

Speaking before the National Assembly eighteen months later, he said:[2]

> Anyone in good faith can verify that peace and complete calm reign in our Overseas Territories without the use of force but merely due to the habit of peaceful living in common.

On October 28, 1960, at Lourenço Marquês, the Chairman of the Executive Committee of the National Union, Dr. Castro Fernandes, stated:[3]

> Admidst the unrest that has spread across this continent the Portuguese Provinces of Africa are justly considered...a real oasis of peace where life continues

> normally, where the inhabitants live in security and calm in the shade of the Portuguese flag,...where freedom and authority exist side by side, the one complementing the other.

A few months later revolt broke out in the north of Angola.

It was said at the beginning of the present study that only limited space could be given to the events in Angola. To give a detailed account of those events would lie more within the sphere of journalism than of political science. Moreover, even from the standpoint of political science the subject would need a whole book to itself. What is more important is to ascertain whether the uprising was of a purely accidental nature or, on the other hand, sprang from long-standing factors of unrest. In the pages that follow an attempt will be made to elucidate this issue. This will be followed by a brief description of the events in question.

Part I

GATHERING CLOUDS

§1. The First Symptoms of Unrest in the Overseas Provinces

At the beginning of the century Portugal's African Provinces were considered as having been thoroughly pacified. The unrest of certain tribes, such as the Bailundu in Angola, had been promptly quelled. Symptoms of a completely new nature appeared in 1949 with the discovery in Mozambique of a plot against the Lisbon Government in which both Blacks and Whites were implicated.[4] It was at this time that news of the rapid political evolution then taking place in the French- and British-administered territories began to filter into the Portuguese Provinces. Small

political study groups were formed in Luanda in which liberal Whites were joined by educated Africans. In 1951 the dockers at the port of Lourenço Marqués went on strike; immediate - and violent - measures were taken to put down the strike, and the leaders were placed in disciplinary internment camps.[5] In 1952 a group of over 500 Angolans addressed a petition to the United Nations complaining of the maltreatment of the indigenous population by the Portuguese authorities.[6] In February 1953 serious incidents broke out on the island of S. Tomé. The workers employed on the rich coconut plantations that abound in the archipelago were traditionally recruited on the continent and the local population was not compelled to work. However, the plantations had run short of labour and the Governor had issued an order obliging all male natives to register for contract labour. This caused an uprising, the results of which have never been revealed by the Portuguese Government. All that is known is that it was ruthlessly suppressed; several hundred Africans were said to have been killed and many others placed in internment camps.[7] In 1954 local disturbances broke out in the Marrupa and Quelimane areas in Mozambique, but were soon, and unobtrusively, stamped out. This same period saw the formation of the first political parties among the African inhabitants of the three continental Provinces. Needless to say, their growth and activities were shrouded in the utmost secrecy. In December 1955 there were demonstrations against obligatory labour in the north of Angola. In February 1956 the majority of the Angolan political leaders were arrested and interned in the Silva Porto region. In August 1959 events moved to Guinea. At Bissao, the capital of the Province, the seamen employed by a Portuguese steamship company demanded a wage increase. The local manager of the company refused to negotiate and asked the Governor for armed support. On August 3 the police intervened in what was given out to be an insurrection; the workers gave answer and the police resorted to its fire-arms. According to witnesses who succeeded in escaping across the frontier to Conakry, the result was nothing less than a massacre; some 50 Africans were killed and another 20

arrested and thrown into prison. Here again, however, the news blackout imposed by the Portuguese authorities prevented the events from becoming known through the customary channels.[8]

In December 1958, the Conference of Dependent Peoples was held at Accra, and for the first time a representative of Portuguese Africa took the floor in an inter-African assembly. By this time, in fact, several political groupings had come to take definite shape. Over and above a number of purely local and tribal groups, two major parties had emerged in Angola.[9]

1. The Union of the Populations of Angola (Uniao das Populaçoes de Angola or U.P.A.) resulted from an expansion of the former "Union of the Populations of Northern Angola" which had been set up in Leopoldville in 1954 and drew most of its members from the among the Bakongo in the north of the territory. In 1958 the party had abandoned its regional character with a view to extending its activities over the whole Province; however, the Congo District has remained the party's major stronghold. The leader of the party is Mr. Holden Roberto, one-time civil service official in the Belgian Congo. His office is in Leopoldville. Representatives of the U.P.A. told the United Nations Sub-Committee that there were some 70,000 registered members and that the party was "prepared to collaborate with a democratic Portuguese Government if it recognized the right of Angola to self-determination".

2. The Peoples' Movement for the Liberation of Angola (Movimento popular de Libertaçao de Angola or M.P.L.A.) came into being in December 1956 through the fusion of various African nationalist groups that had been formed at Luanda, Catete and Malange. Its founders, Ilidio Machado and Viriato Cruz, are at present in prison and exile respectively. Its present leader is Dr. Mario Andrade. His offices, initially established at Conakry, are now in Leopoldville. The M.P.L.A. maintains relations with the Casablanca Powers and has adopted a position of active neutralism in matters of external policy. It first declared objective is "the immediate and total independence" of Angola, the institution of a "republican, democratic and lay system of government" and

"full solidarity with all African peoples fighting for their independence". Its representatives told the United Nations Sub-Committee that there were 34,800 registered members.

In January 1960 both the U.P.A. and the M.P.L.A. sent delegates to the Pan-African Congress in Tunis. In December 1960 several of their leaders met in London and, in a statement handed to the press, voiced their concern at the Portuguese Government's refusal to recognize the nationalist apirations of the African populations of the Overseas Provinces.

§2. Angola From March 1959 to March 1961

I.- In March 1959 the Portuguese political police, called the P.I.D.E., began to track down members of the clandestine political organizations in Angola and arrested a hundred or so leaders and other active figures. It discovered in the course of its operations that the African parties were being supported by a considerable number of white Portuguese of liberal tendencies. The Lisbon Government began to send military reinforcements to Angola and a number of air force units took up permanent station in the Province. On April 26 a gigantic military demonstration, complete parachutist landings and mock bombardments, was staged at Luanda as a public spectacle; the local press termed it "the first Portuguese Air Force Festival". This parade of strenght was repeated at several places in the centres and south of the Province - at Nova Lisboa, Sa da Bandeira, Lobito and Benguela. In July the police launched a new offensive against the African nationalists. More than 150 people were arrested in Luanda. Mr. Ilidio Machado, one of the founders of the M.P.L.A., was arrested while on a passing visit to Lisbon. Several other political leaders sought by the police managed to cross the Congolese frontier.

The majority of those arrested were transported, without trial, to internment camps, mainly those at Bié and Baia dos Tigres. Some were released. Forty-three were imprisoned in Luanda itself. Among these were Ilidio Machado and seven Europeans, including Mrs. Julieta Gandara, a doctor. On December 7 and 21, these 43 persons were charged under Articles 141 and 151 of the Penal Code with endangering the security of the State and the case was referred to the District Court in Luanda. At the same time 14 persons - including Messrs. Holden Roberto, Mario Andrade and Viriato Cruz - who had fled or taken refuge abroad - were likewise summoned before the same court on a similar charge. The trial was due to open on March 7, 1960, but was subsequently put off until July 25. The accused were to be tried in three groups, the seven Europeans forming the first. These had entrusted their defence to Dr. Manuel Juan da Palma Carlos, a Lisbon barrister, who was to be assisted by several local barristers from Luanda. When about to take the plane at Lisbon airport, Dr. da Palma Carlos was detained by the police and prevented from leaving. Notwithstanding the compulsory absence of the leading counsel for the defence, the trial of the seven Europeans duly opened on the day prescribed. On August 12, 1960, the accused were sentenced to between one and three years' imprisonment and deprived of their political rights for 15 years. The sentences were upheld by the Court of Appeal.

II.- Meanwhile there had been increasing disquiet. On March 19, 1960, Mr. James Russell, an Evangelist missionary of British nationality who had served in Angola for 27 year, was arrested by the police and expelled from the territory a few hours later. While passing through the Cabinda enclave in early May, a Times correspondent learned that the police had arrested some 20 Africans the week before.[10] On June 8, 1960, the P.I.D.E. arrested Dr. Agostinho Neto, a writer and physician; this eminent African was suspected by the authorities of harbouring sympathy towards the nationalist cause. Dr. Neto had been arrested twice before; in 1951 he had spent several weeks in prison; he had later been interned, without trial, from February 1955 to June 1957.

Following his third arrest he was first taken to Lisbon and then deported, again without trial, to the Cape Verde Islands. The news of his arrest spread immediately and aroused strong feeling, especially in Dr. Neto's native village, Bengo, some 55 miles south of Luanda. The people of Bengo decided to form a delegation and go to Catete, the chief town of the circumscription, in order to ask for his release. Forewarned, the administrator at Catete requested that reinforcements be sent from Luanda. Two hundred soldiers duly arrived, armed with automatic weapons. When the Bengo delegation, accompanied by the populations of a number of other villages, arrived at Catete and began to hold their peaceful demonstration, the troops promptly opened fire, killing 30 people and wounding 200 others. The next day the troops went to Bengo and, having massacred what inhabtiatns were left, set fire to the village.[11] Once again a veil of silence was drawn over the incident and the news did not reach London until October.

Fifty or so arrests were made in Luanda during this same month of June 1960. On June 25, the police arrested Father Pinto de Andrade, a doctor of theology and Chancellor to the archbishopric of Luanda. He was first incarcerated in the prison at Aljube, near Lisbon, and then interned on Principe Island. In March 1961 he was again transferred to Portugal and imprisoned there, although no charge had been brought against him. Subsequently, several other ecclesiasts were arrested, including Mgr. Manuel Mendes das Neves, Vicar-General of Luanda, and Father Nascimento, chief editor of a Catholic weekly and Secretary of the Archbishop of Luanda; both were taken to Lisbon and imprisoned without trial.[12]

On November 2, 1960, eight African political prisoners are reported to have been shot in the courtyard of the military prison at Luanda. Their names have never been divulged. A 14-year-old boy who was in the vicinity is said to have been killed at point blank range while climbing the outer wall of the courtyard in order to look in.[13] During the weeks that followed tension rose steadily towards its final breaking point. The police multiplied

their raids on the villages. In Luanda itself a 10 p.m. curfew was enforced on all Africans. In February 1961 the Santa Maria affair was, indirectly, the cause of a new outburst. Some 60 foreign journalists were gathered at Luanda awaiting the liner's possible arrival there. On February 4, taking full advantage of this unwanted gallery of non-Portuguese observers, Angolan nationalist elements launched an attack on the Sao Paulo prison and the central police station. Fighting continued into the next day. The assailants, who were poorly armed, were beaten off and the police took up reprisals. Some 50 Africans were reported to have been killed and 100 wounded. This time there were too many foreign witnesses for the event to be kept secret, and the news promptly spread throughought the world.

III.- However, increasing military precautions were being taken. The normal strength of the forces stationed in Angola was 10,000 men. These consisted mainly of African recruits, supplemented by a number of metropolitan recruits fulfilling their normal term of military service and staffed by European officers. The armed forces stationed in Metropolitan Portugal amounted, in strength, to two divisions. In March 1960, the Times' correspondent in Luanda reported that the European elements in the armed forces in Angola had been reinforced and that additional contingents had been sent to several garrisons stationed in the vicinity of the Congolese frontier. In May 1960, the same correspondent wrote that these units had recently been fitted out with modern equipment: armoured vehicles, quick-firing weapons and troop trucks. Depots had been set up for storing such equipment and new military encampments erected in several localities. Two gunboats and a frigate were patroling the coast, and new airfields were being laid out, including one at Toto and another at Nova Lisboa.[14]

At the same time the nationalist resistance forces were being organized. At the meeting held in London in December 1960, at which the main political parties in Angola were represented, Dr. Mario Andrade had already stated that the direct action en-

visaged "did not exclude a general uprising, a form of battle welcomed by the colonized masses".[15]

It can be said, therefore, that the revolt that ultimately broke out in Northern Angola in March 1961 was not an accidental occurence. It appears, on the contrary, to have been the final expression of a steadily-mounting crisis of which both sides had seen and noted the precursory symptoms.

Part II

THE REVOLT IN ANGOLA

§1. The Beginning

Each side has given a different account of the circumstances in which the revolt first began on March 15, 1961, in the Congo District.

First, there is the account that was given at U.P.A. headquarters in Leopoldville to the representative of the Monde diplomatique. The uprising, it was said, originated in a serious incident that occured on March 14 at the Primavera plantation, owned by a Portuguese company, Nogueira Limitada, and situated near Sao Salvador do Congo in the Congo District. On the day in question the 4,000 workers employed on the plantation had gone on strike to obtain higher wages and a reduction in the number of working hours. The manager of the plantation, a Mr. Reis, armed himself with a gun and fired on the workers at point blank range, killing a number of them. The Africans retorted by killing Mr. Reis. The European overseers opened fire in turn. The wheels of the uprising had begun to turn and in two weeks the riot had spread from the Primavera plantation to the whole of Northern Angola.[16]

The version given by the Portuguese Authority is naturally quit different.[17] In the first place, the rioting is alleged to have begun on March 15 - not 14 - in the early hours of the morning. Furthermore, the Primavera plantation - which is in the vicinity of Madimba and not of Sao Salvador - lies in an isolated position and is over 60 miles from the next plantation; it is therefore unlikely that the uprising could have spread like a forst fire from one plantation to another. Finally, the official version goes on, the plantations within a radius of between 60 and 90 miles from Madimba were all attacked simultaneously, at the same time as the Primavera plantation (not afterwards), and all in exactly the same way. The uprising was thus the result of a planned, concerted action and not of a fortuitous incident. It is further maintained that most of the armed rebels came from the Republic of the Congo (Leopolville) and that they were all members of the Bakongo ethnic group; the workers belonging to the Bailundu group, who come from Central and Southern Angola, are said to have remained loyal and to have fought, in several localities, on the side of the white population against the insurgents. Lastly, it is claimed that the U.N. delegates of certain African States knew that the uprising had begun before the Portuguese authorities were themselves aware of it. In the light of these facts the Portuguese Government concluded that the revolt was not a spontaneous outburst but the result of a concerted operation directed from outside by the leaders of the Angolan nationalist parties, with the open support or tacit sympathy of neighbouring Governments.

No first-hand information is available by which to judge the relative truth of these two accounts. It is on record, however, that foreign observers have been almost unanimous in pointing to the simultaneity of the attacks launched on the plantations in a certain area of the Congo District; the "forest fire" theory, i.e., that the revolt was sparked off by an incident brought about through the brutality of a certain plantation manager, is thus belied by the facts. Newspapers and periodicals that can hardly be accused of sympathy to the Portuguese cause, such as the London

Economist, the Salisbury Central African Examiner and Africa Today (New York), report that the rebels attacked on a front several hundred miles long and according to what was obviously a carefully prepared plan, and that everywhere they used the same tactics, namely to attack the more isolated plantations, trading stations and administrative posts while cutting the communication lines to delay the arrival of the Portuguese forces.[18] The same publications emphasize the ferocity shown by the rebels and that they blindly slaughtered every European they came across, including women and children, as well as Africans who attempted to intervene. White casualties during the first days of the revolt have been estimated at over 500. It should be pointed out that this wave of terrorism was confined, at least at the outset, within the area formed by the four towns of Nova Caipemba, Quibumbe, Nambuangongo and Quitexe, which lies some 125 miles south of the Congolese frontier. The rebels carried rudimentary weapons, consisting mainly of side-arms. It would therefore be wrong to speak of a powerfully-armed expeditionary corps flooding into the territory across its northern frontier. It appears that only the orders came from outside.

§2. Counterattack and Repression

I.- Although the events that followed the initial uprising were more than a little confused, we shall nontheless attempt to give a brief account of them.[19]

During the second half of March, the rebels took advantage of the surprise caused by their attack and attempted to follow up their successes and extend the area of their activity. They showed no hesitation in attacking more important centres, such as Dembos and Vila Marechal Carmona. A feeling of insecurity, and even panic, spread among the European population throughout the Congo District. The women and children were evacuated; the men formed themselves into militia units and were issued with

weapons by the government. In April the rebels occupied Ucua, a locality situated some 80 miles north of Luanda. Damba and Carmona were encircled and the road from Damba to Maquela do Zombo had been cut. On April 30, the rebels launched a strong attack on 31 de Janeiro and were only driven off after violent fighting. A large part of the District was now under their control.

Meanwhile, on the Portuguese side, reinforcements had arrived by sea and air from Metropolitan Portugal: 9,600 men in March and April and a further 3,400 in early May, including infantry, engineers, motorized troops and artillery.[20] Permanent garrisons were established at key points and mobile columns sent into the interior. During the month of April, Dr. Salazar made a number of Cabinet changes and personally took over the Defence portfolio. In June, General Augusto Deslandes was appointed Governor-General of Angola and given full powers to undertake whatever civil and military operations were necessary to restore public order. The civilians were organized into Volunteer Corps and issued with weapons. Only citizens of European stock were admitted to this militia; all Africans, even those classed as non-indigenous, were excluded. In March the question of the situation in Angola was brought before the Secutiry Council and in April it was the subject of debate in the General Assembly.

During May the rebellion continued to spread. The rebels now controlled part of the frontier and Portuguese military communiqués reported that a number of enemy units were equipped with automatic weapons and radio transmitters. The Portuguese army was obliged to evacuate a number of outposts and several military columns were ambushed or attacked on the flank. Public safety in the Congo, Cuanza Norte and Malange Districts had to be placed in the hands of the armed forces. The army command turned to the air force and requested that it bomb and machinegun concentrations of rebel forces and parachute reinforcements into threatened areas. Having succeeded in driving the Portuguese out of part of the Congo District, the rebels changed their tactics.

They temporarily abandoned their attempts to extend the areas under their complete control and concentrated on guerilla warfare. The dry season was not yet over and the terrain favoured surprise attacks. The rebels could easily mingle among the population and launch unexpected attacks on isolated posts, convoys and patrols; they continued to raid plantations and destroy the crops, buildings and agricultural machinery. Their objective was to spread and sharpen the sense of insecurity and to paralyse the economy of Northern Angola by forcing the evacuation of the plantations. Other guerilla operations were carried out to blow up airfields, roads, bridges and similar installations.

Fighting continued throughout June and July 1961. The rebels pushed their attacks as far as the cotton plantations in the Icolo e Bengo region, south-east of Luanda. General Gomes de Aranjo, the Chief-of-Staff of the Portuguese armed forces, went personally to Luanda and ordered an offensive against a large concentration of rebel troops in the Nambuangongo region. As a result of a combined land-air operation a number of localities were retaken and normal communications re-established with Vila Marechal Carmona. On August 10, Portuguese headquarters announced that Nambuangongo had been taken by army troops. On August 29, a further communiqué announced that the first phase of the operations to put down the rebellion had been successfully completed. On October 10, Governor-General Deslandes announced that the uprising could now be regarded as over; all areas that had at one time been controlled by the rebels had now been retaken and all localities and administrative posts re-occupied. The official estimate of Portuguese losses was 1,400 dead, including roughly 1,000 civilians massacred during the first 48 hours of the revolt. Rebel losses were placed at approximately 50,000 dead.

Has the rebellion been totally and definitely crushed? Have peace and security been completely restored throughout the Province? It would not appear so. In January 1962, two American specialists in African affairs travelled roughly 180 miles, on foot, through a region that was entirely under rebel control.[21] They estimated

that the rebel-held area measured some 17,500 square miles and stretched from just outside Luanda to the Congolese frontier. The rebels kept clear of the larger localities, but they occupied the villages and the bush and from time to time attacked the plantations. Their losses had been caused mainly by air attacks. Many villages had been moved to wooded areas where they were sheltered from the air. These areas were ideal for ambush tactics and any troop movements on the part of the Portuguese were virtually impossible. Moreover, in January and February 1962, communiqués reported fresh engagements between Portuguese forces and rebel troops in various regions of the Congo District and as well in Central Angola, some 60 miles from Nova Lisboa.[22]

II.- While not denying the extent of the uprising the Portuguese Government has persistently maintained that it left the mass of the African population unmoved. It has emphasized the unwavering loyalty of the Bailundu, who inhabit the centre and south of Angola. The rebels, it maintains, belong almost exclusively to the Bakongo; as a whole, however, the Bakongo tribes also remained loyal when not compelled to be otherwise by the rebel forces. In the interview published by the New York Times on May 31, 1961, Dr. Salazar stated that many Africans only joined the rebels because they were threatened with death if they did not;[23]

> The method adopted has been almost always that of the murder of a certain number of inhabitants of each village and the exhibition of their barbarously mutilated bodies to the local population called together for this sinister spectacle. Those that did not wish to join were told that they would suffer the same fate. We have unmistakable proof of the following: as the forces of order approach these regions, the people whom the terrorists have in this way compelled to join their bands immediately placed themselves under the protection of the former and soon returned to their normal work.

It might be concluded from this that the vast majority of the Angolan population wish for nothing more than to remain under Portuguese administration, that they are utterly unsympathetic to the nationalists' cause and that the revolt was no more than factitious demonstration engineered and directed by elements outside the country.

Unfortunately present circumstances hardly lend themselves to a systematic enquiry among the African villages of Northern Angola. But if one can say of the refugees from the German Democratic Republic that they "voted with their feet", there is no reason to believe that this does not also apply to the tens of thousands of Angolans who, since March 1961, have left the Districts of Cabinda and the Congo and sought refuge in the two Republics of the Congo. In August 1961 the United Nations Sub-Committee went to Leopoldville and gathered first-hand information regarding the volume and causes of this mass exodus.[24] According to the representative of the League of Red Cross Societies in Leopoldville, up to September 1, 1961, 131,000 relief ration cards had been issued to Angolan refugees. The actual number of refugees is unquestionably higher, for many have gone to join relatives in villages where no refugee relief is distributed and have consequently gone unregistered. Moreover, according to the information supplied to the Security Council by the Government of the Republic of the Congo (Brazzaville), up till June 1961 7,000 refugees had entered the country from the Cabinda enclave. What are the reasons for this exodus? When the disturbances began most of the settlers and European traders inhabiting the north of Angola fell back on Luanda. Why should the Africans have taken the opposite direction? The Portuguese Government offers a very simple answer: the terrorists. Prior to abandoning any area to the advancing Portuguese troops, the terrorists, it says, would drive the flood of fleeing refugees before them and murder any who showed any inclination to stay and witness the restoration of law and order. However, the Sub-Committee spoke directly to a large number of refugees. These drew a very different picture:

> The information received by the Sub-Committee from the refugees themselves indicates that they had fled because of Portuguese actions or out of fear of such actions...Entire villages fled in panic, even from areas apparently outside the scene of armed conflict, after violence against persons in their villages or reports of violence in neighbouring villages. Some of the refugees were severely wounded and, according to the information available, said that they had been victims of violence by the Portuguese.

The case of the refugees from Cabinda is symptomatic. The uprising had hardly touched this District, yet in April 1961 thousands of Africans began to take flight. As has already been noted, by June there were 7,000 of them registered in Brazzaville alone, apart from those in Leopoldville and elsewhere. They could not have fled for fear of the African terrorists for there was no terrorism in the country. The reasons given by several of them when questioned by the Sub-Committee were clear enough: the exodus began when "Portuguese residents attacked and killed several Cabindese". Furthermore, if it is true that the vast majority of Angolans wish for nothing better than to be protected by the Portuguese authorities, why do they not go home now that - according to those same Portuguese authorities - peace and order have been restored in the areas previously affected by the uprising? It is inconceivable that 150,000 refugees, enjoying the protection of a foreign Government and of international organizations such as the U.N. High Commission and the International Red Cross, and having had the opportunity of expressing their grievances to the United Nations Sub-Committee, could be forced to remain in exile by a handful of "terrorists".

The information gathered in August 1961 by the United Nations Sub-Committee is complemented by other information gathered at about the same time by two British observers whom a private organization in London, the Angola Action Group, had sent on a fact-finding mission to Leopoldville: the Rev. Eric L.

Blakebrough, of the Baptist Church, and Mr. George Thomas, a member of Parliament and a past Vice-President of the Methodist Conference. After having spent two days in Leopoldville, these two observers then went down to the Congo-Angola border. They travelled approximately 150 miles in the frontier region over a period of ten days. They found large numbers of refugees on Congolese territory to the east of Matadi, where they were grouped in camps run by the Red Cross and by Catholic and Protestant missions. They had personal conversations with many of these refugees. Three basic facts emerged from these conversations.[25] 1) There was not one single case where a refugee had returned voluntarily and permantently to Angola. 2) The refugees questioned all stated that while the Portuguese were in power they would never return to Angola. 3) A very small minority of the refugees questioned admitted that they had been compelled to leave through pressure by the rebels; on the other hand, however, many had performed feats of physical endurance in order to seek safety from the Portuguese; old people had covered hundreds of miles on foot, while sons had carried invalid parents. In short, these people had taken flight from the administrative authorities, the police and the Portuguese army; they had risked everything to reach the frontier and were determined not to return to Angola while the Portuguese remained there.

III.- Given this situation it is perhaps necessary to take a closer look at the means employed by the Portuguese to put down the rebellion. A brief account has already been given of the operations carried out by the regular troops. Were they conducted like any other normal field operation by military forces, in which the aim and principle is to strike at the enemy without victimizing the civilian population not involved in the fighting? Did not the Minister for the Overseas Provinces, Dr. Adriano Moreira, himself state on May 19, 1961, at Luanda:[26]

> I have instructed all authorities to multiply their efforts to prevent any injustice being done; for in no instance can the just suffer for the sinner. Though

> it is our duty to liquidate terrorism in the Province, it is also our duty to protect the populations to whom we have given a national structure previously unknown to them and who count on us for the protection to which they are entitled.

Unfortunately it appears to have been established that the measures taken to repress the rebellion were a good deal less discriminating and that the Minister's call for moderation went largely unheard among subordinate circles. We shall pass over such sources of information as might be considered as propaganda, such as the reports published by the Angolan parties in exile. Attention will be confined to two unquestionably objective and impartial reports: that of the United Nations Sub-Committee on the Situation in Angola and that of Mr. Thomas and Mr. Blakebrough published by the Angola Action Group.

1. It should be noted at the outset that the authors of both these reports open acknowledge, as an established fact, that atrocities were committed by the African rebels during the early days of the uprising; they make no attempt to minimize the excessive acts of violence perpetrated by the rebels or to diminish the guilt of their authors. Whatever the causes were that drove the Africans to sudden revolt and to blind execution of their leader's instructions, nothing can possibly excuse the slaughter of several hundreds of men, women and children in circumstances that were often of the utmost savagery.[27]

2. On the other hand, however, the two repots point out that excessively violent repressive measures were very often taken by militia units.[28] Reference has already been made to the fact that following the outbreak of the revolt the Portuguese authorities recruited Volunteer Corps among the white population. These were issued with weapons. From the evidence received by the United Nations Sub-Committee and the two British observers it would appear that these militia units frequently "resorted to attacks on unarmed and defenceless Angolans with little or no provocation and...engaged

in acts of vengeance". It can well be imagined that once they had overcome their fear and surprise and armed themselves in groups, the settlers whose plantations had been attacked took to reprisals and that these reprisals were inflicted indiscriminately on all Africans they happened to come across. Press correspondents have reported that during the early weeks of the uprising a wave of terror swept the whole of Northern Angola and that whole villages had been wiped out. Precise instances of atrocities committed by the militia units are cited in the report drawn up by Mr. Thomas and Mr. Blakebrough.[29] The Portuguese Government seems to have realized fairly soon that these militia units were slipping from its control and it was imperative that they be taken in hand. During a debate in the British House of Commons on July 5, 1961, the Minister of State, Mr. Godber, read out a message from the British Consul-General in Luanda according to which "most of the crimes committed by the Portuguese consist of acts by armed civilians, and the authorities, far from approving such excessive measures, are doing their utmost to put an end to them".[30] The fact remains, however, that the local authorities, both civil and military, were seriously at fault in distributing arms to people who were then left to make use of them as they pleased. The Sub-Committee noted that "efforts made by some civilian administrators, who did not subscribe to terror, to end abuses were sabotaged".

3. But the responsibility of the regular armed forces is no less seriously involved. First, there was the policy adopted by the Portuguese High Command. The sheer strength of the forces put in the field and the large-scale use of artillery and aircraft against an enemy that for the most part was armed with nothing but cutlasses show that the Portuguese High Command aimed to put down the revolt simply by exterminating the rebels. But the methods of mass destruction resorted to, such as the bombing of villages, the use of napalm bombs and the machine-gunning of supposedly enemy-held areas, struck down rebels and innocent civilians alike. The Sub-Committee's report emphasized that "punitive expeditions by ground forces and the extensive use of aviation had gone beyond what was necessary for the attainment of what the Portuguese

Government stated to be the scope of its military actions".[31] The truth is that the High Command had decided to quell the revolt through terror and took the necessary steps to spread terror among the African population, rebel or otherwise, in all areas affected by the revolt. The two British observers gathered evidence from many witnesses concerning attacks by fighter and bomber aircraft on villages and fleeing Africans.[32] Their report contains eye-witness accounts of the bombing of the villages of Kilanda, Luzuranda, Kipaku and Congo dia Poveleca, and of machine-gun attacks on the population in the villages of Vila and Banzu Kinzau.

4. The High Command's terror policy seems to have been followed all too faithfully by the units in the field. Here again reference needs only be made to the evidence collected by Mr. Thomas and Mr. Blakebrough. Two witnesses, Pedro Bula and Francisco Nzembene, described the shooting of 67 African prisoners. Another witness, Pierre Capitan, saw Portuguese soldiers burn two prisoners alive by pouring petrol over them. Joao Garcia told how soldiers had set fire to his village and machinegunned the inhabitants as they fled. Etienne Michel has likewise seen motorized troops drive into a village and set fire to the still-occupied houses. Antonio Moniz, Garcia Ramos, Manuel Lutambi and various other witnesses had seen Portuguese soldiers murder the populations of whole villages.[33] There is a kind of monotony of unrelieved horror in these various reports. Even so the story they tell is far from complete for they touch upon only a few of the innumerable repressive operations undertaken by the Portuguese forces.

5. In addition to the military forces the police, too, was not without a hand in this campaign of terror. The police would follow up the troops as they advanced into the areas affected by the revolt. The Sub-Committee's report mentions cases of "indiscriminate arrests, imprisonment without trial, ill-treatment of prisoners, and the disappearance or execution of prisoners without the normal processes of law". It states that reprisals were fre-

quently directed against the more educated Africans, suspected a priori of being nationalist leaders.[34] The report of Mr. Blakebrough and Mr. Thomas quotes a number of precise instances; on April 5, at Quibocolo, the police arrested 20 people and executed them then and there; on April 12, at Mabubu, a police detachment from Damba murdered 14 people; on April 8, at Yanga, five men and four women were shot by the police.[35] Moreover, the wave of police violence spread throughout the country, into areas far removed from the scene of the revolt. In this connection the United Nations Sub-Committee reported:[36]

> Pre-emptive actions were applied to areas of Angola which had not been affected, and repression was carried to places where there had never been the slightest attack against the European population. Rumours of the discovery of alleged "plots" would be spread, and the local white population would request protection. In some cases protection would be given in the form of army patrols ready to give the example of summary executions. In other cases the situation would be left at the discretion of local elements.

6. The Portuguese authorities felt suspicious of the more educated Africans but particularly so of the personnel and followers of the Catholic and Protestant missions. This suspicion was naturally reflected on to the European missionaries themselves and these were openly accused of sympathy towards the rebels. As already seen, several members of the Catholic clergy had already been arrested in 1960. During the first days of the uprising two Italian priests, Fathers Angelo Graziani and Piero Giovani, were killed by the rebels. The Government took this incident as a reason for ordering the immediate evacuation of all European priests and missionaries within the area affected by the uprising. The African staff remained. Mr. Blakebrough and Mr. Thomas, who are members of the Baptist and Methodist Churches respectively, were naturally anxious, during their enquiry along the Congo-Angola frontier, to learn what had happened to the ministers and

followers of these two denominations. They discovered that after the departure of the Europeans the personnel of the Methodist missions had been persecuted and decimated. Detailed information in this connection is appended to their report.[37] In the village of Piri, near Dembos, three pastors and three teachers had been shot without trial, four pastors had been imprisoned, and 23 pastors and 18 teachers were missing. In the circumscription of Ambriz four pastors were in prison while seven others and 14 teachers had disappeared. The dead alone included two pastors in the Alto Concelho circumscription, two in Cambambe, one in Quiculungo and another in Icolo e Bengo. The personnel of the Baptist missions had likewise suffered persecution. The report cites the case of three Baptist teachers who were said to have been shot without trial in the Ambrizete region.[38] The two observers managed to draw up a list of the names of 142 Christians of various denominations who were reported to have been arrested by the police or the Portuguese army and executed out of hand.

It is difficult to make even a rough estimate of the casualities caused by the repressive measures undertaken by the Portuguese authorities. In a statement made to the American press on November 28, 1961, Mr. Holden Roberto gave the African losses as 50,000 dead; of these, 4,000 had been killed in combat, the remainder being civilian losses caused by air raids and reprisals. As already noted, the Governor-General of Angola announced at about the same time that Portuguese losses were roughly 1,000 civilians and 400 soldiers. The difference between the two sets of figures is in itself an indication of the force and brutality behind the repression.

Part III

THE SITUATION TODAY

I. Early in 1962, there were reports of continued fighting between rebel and Portuguese forces in the north of Angola. It would seem that notwithstanding General Augusto Deslandes' optimistic announcement in October 1961 the situation in the Congo, Cuanza Norte and Luanda Districts is still far from one of peace and security. In March 1962, a special correspondent of the Observer spent several days among rebel forces on the Angolan side of the Congolese border.[40] He noted that in this particular region both civil and military powers were virtually in the hands of revolutionary forces controlled by the U.P.A. The men were being methodically trained and were divided up into units. These were equipped with a hybrid variety of weapons, some of which has been captured from Portuguese troops. Some of the men were deserters from the Portuguese army and the police. The rebels claimed that they controlled about one-sixth of Angolan territory, excluding the larger urban centres and the airfileds occupied by the Portuguese forces. Within the area operational bases had been established in some 50 villages and small units posted in a number of others; the Portuguese could only move in heavily-escorted convoys, even on the trunk roads. The rebels were reported to have developed new tactics; they no longer attacked in strength on a continuous front but were concentrating on harrying the enemy by surprise attacks on troop columns, patrols and isolated postos and plantations. They aimed to extend their operations to the urban centres in the form of organized attempts on human life and acts of sabotage. Modern weapons, explosives and mines had arrived from Tunisia and teams had been sent to North Africa for instruction as to how to use them. They claimed to be 25,000 strong and to have inflicted heavy losses on the Portuguese forces; their guerilla campaign had already cost the Portuguese army 7,000 dead. The reporter himself noticed

two things. First, during his visit Portuguese aircraft attacked the village where he was staying, and several others in the vicinity, on ten consecutive days; hour after hour each day he saw varying numbers of aircraft, of several different types, dropping bombs and spraying the area with cannon fire; this shows that the Portuguese High Command still takes the rebel forces seriously. Secondly, he noted that the population was, without exception, determined to fight to the end in order to win independence and that the leaders stressed the unitary and anti-tribalist tendency of Angolan nationalism.

In April 1962, the headquarters of the "Angolan National Liberation Army" announced a series of succesful operations: on April 5 an assault unit had attacked a Portuguese detachment near Cacuaco, some 8 miles north of Luanda; on April 8, another engagement at Muxa-Luanda; on April 10 a Portuguese patrol was ambushe at Beça-Monteiro; on April 13, fighting in the vicinity of Ambrizete on April 15 and 17, a series of skirmishes at various places. In each of these engagements a considerable number of Portuguese troops had been killed and wounded.[41] During this period the Portuguese forces in action in Northern Angola were estimated at approximately 35,000 men. Still more recently, on May 19, 1962, a communiqué was issued in Lisbon announcing that large-scale land-air operations were in progress in the Beça-Monteiro, Upper Dange and Zala regions.[42] On the Portuguese Government's own admission the affair is far from being over and done with.

II.- The events which followed the outbreak of the revolt have had serious repercussions on the development of the two major nationalist parties in Angola. Early in 1960 the M.P.L.A. had set up, in conjunction with a number of minor parties, a "Revolutionary African Front for the National Independence of the Portuguese Colonies" (F.R.A.I.N.). Its leader, Dr. Mario Andrade, made repeated attempts to persuade the U.P.A. to become part of this organization, but Mr. Holden Roberto insisted on his party's remaining totally independent. From April 18 to 20, 1961, the various nationalist organizations in the Portuguese Colonies held

their first congress in Casablanca, as a result of which they set up a permanent bureau in Rabat. The M.P.L.A. played a prominent role at this conference. The U.P.A., however, refused to attend. During the 12 months that followed the outbreak of the revolt, Mr. Holden Roberto persistently rejected all proposals for the creation of an Angolan Liberation Front and organized the "Angolan National Liberation Army" within his own party. It is to this "army" that the majority of the partisans in the border region belong.

On March 8, 1962, Marcos Kassanga, the Chief-of-Staff of the National Liberation Army, issued a statement which amounted to a complete break with Mr. Holden Roberto.[43] It included a number of serious accusations against Mr. Roberto; he was accused of having murdered rebel fighters who were members of the M.P.L.A., and of harbouring tribalistic tendencies detrimental to the consolidation of the nationalist forces. The General Staff of the National Liberation Army stated that it had lost its confidence in the U.P.A. and launched an appeal for unity in the form of a National Liberation Front. Immediately following this announcement the directorate of the General Workers' League of Angola, which also has its offices in Leopoldville, issued a statement likewise dissociating the movement from Mr. Roberto and the U.P.A. This break-away on the part of the military and trade-union elements of the U.P.A. and their call for a National Front will almost certainly add considerable strength to the position already held by Mr. Andrade and the M.P.L.A.

On April 5, 1962, Mr. Holden Roberto made his countermove: he announced the creation in Leopoldville of a "Provisional Government of the Angolan Republic", which was soon to set up a permanent delegation on Angolan territory. Mr. Roberto further announced the creation of a "National Front" through the merging of the U.P.A. with the Angolan Democratic Party, a small group previously called Alliazo and drawing its members from the Zambo region.[44] However, Mr. Mario Andrade was not to be robbed of his own brainchild and at once qualified Mr. Roberto's move as a piece

of artful trickery. Another leader of the M.P.L.A., Mr. Eduardo dos Santos, once again accused Mr. Roberto and his troops of tribalism; it was said that the Bakongo troops in the frontier region were systematically murdering all Africans who could not show a Portuguese passport bearing the U.P. A. stamp. Eight thousand Angolan nationalists are reported to have been killed in this senseless fashion.

These dessensions are unquestionably draining the rebels' strength. They will have much to do if they are to regroup their forces and make a united stand against the reconquest of the territory by the Portuguese army.

III.- So far attention has been confined almost exclusively to Angola, where the forces opposing Portuguese colonial administration have been the first to take up open rebellion. However, events in Angola have had considerable influence on political developments in the other Overseas Provinces.

Mention has already been made of the first congress of the nationalist organizations existing in the Portuguese territories, held at Casablanca on April 18-20, 1961. The revolt in Angola, then only one month old, influenced the meeting profoundly. It was attended by the M.P.L.A., the Nationalist Party of Portuguese India, the Mozambique Democtratic Union and the Independence Party from Portuguese Guinea. The activities of the latter two parties over the last 12 months deserve some attention.

1. The National Democratic Union of Mozambique (Uniao democratica nacional de Moçambique or UDENAMO) embraces all nationalist elements within the Province. It is unusual in that it began as a semi-clandestine group of liberal Europeans, mainly in business and the professions.[45] Its programme was essentially reformist and ruled out any recourse to violence. The Union demanded total administrative and financial autonomy for the Province, the abolition of native status and forced labour, and the election of a provincial legislative assemnly. On April 6, 1961, i.e., prior to the Casablanca Congress, the Union addressed a

message to the Head of State setting out its programme and asking for guarantees concerning the national parlimentary elections that were to take place in November. However, no understanding with Lisbon was ever reached on this matter. The party had meanwhile become heavily Africanized and an African, Mr. Adelino Gwambe, took over the chairmanship. Under this new impulse the Union came to adopt a much more radical programme and at Casablanca its representatives demanded the country's total and immediate independence. In February 1961, the UDENAMO set up its headquarters at Dar-es-Salam, in premises provided by the Tanganyika African National Union. In July 1961, Mr. Adelino Gwambe made the mistake of issuing presumptuous and ill-chosen statements to the press: he claimed that his party was planning a general uprising in Mozambique, that the uprising was imminent and would strike a death blow at the Salazar regime, and that certain outside countries had promised to provide the party with arms. He ingenuously added that he would not reveal the date of the uprising or the names of the localities where it was planned to begin since he did not wish to sacrify the element of surprise. It appears that this swashbuckling led him into hot water with the Tanganyika Government, for the Minister of the Interior invited him to leave the territory by August 1.[46] Did the Lisbon Government take these threats seriously? In the course of 1961 the armed forces stationed in the Province received strong reinforcements from Europe: roughly 10,000 men, according to certain sources. At the same time, it is reported, the P.I.D.E. set up day-and-night posts in the larger urban centres, militia units were formed and arms distributed among the civilian population.[47] So far, Mr. Gwambe's threats have failed to materialize. In October 1961, however, six candidates attempted to expose the six National Union candidates in the elections for the renewal of the Portuguese National Assembly. Their applications to stand for election were turned down by the administrative authorities an the grounds that they did not fulfil the conditions for eligibility prescribed by the law; and the subsequent election of the six official candidates was purely a formality. This incident has aggravated the general malaise in the Province and the Portuguese Government must keep a prudent eye

on both the liberal European Opposition - traditionally very active in Mozambique - and the African nationalist movement, which has an undeniable hold on the native population and cannot, one would imagine, be kept in check indefinitely.

2. The African Independence Party (Partido africano da Indepencia) embraces the nationalist factions in both Portuguese Guinea and the Cape Verde Islands. The party was founded by Mr. Amilcar Cabral, and agronomist and engineer. At Casablanca it demanded the immediate end of the colonial system. Its headquarters are at present in Conakry. The neighbouring presence of the two independent Republics of Senegal and Guinea, as well as the example set by the revolt in Northern Angola, has inevitably increased the latent unrest felt in the country since the incidents at Bissao in August 1959. By April 1961 the situation in Portuguese Guinea had become, according to one observer, "explosive"[48]; at that time nearly 300 Africans suspected of separatist activities were in prison: 7,000 Guinean refugees (plus a similar number from the Cape Verde Islands) had sought shelter in Senegal; in Bissao there was a 10 p.m. curfew; three ships had arrived with military reinforcements, including tanks and artillery; and the frontier was being closely patrolled. In July serious incidents occured on the Senegalese border; Guinean partisans attacked a Portuguese army camp and two military convoys, killing a number of troops. In August Mr. Cabral, who had now adopted the name of Abel Djassi, announced from Conakry that Guinea had taken up the fight for freedom from Portuguese domination and that the P.A.I. was abandoning its policy of political negotiation in favour of direct action and revolutionary struggle. A number of border incidents have since occured; Senegal has broken off diplomatic relations with Portugal; and on January 15, 1962, an engagement between Guinean partisans and a Portuguese unit was reported in the north of the Province near the Senegalese frontier. The nationalists in Guinea and the Cape Verde Islands have agreed to combine their forces more closely; however, they do not appear to have made any decisive prprogress along the road to independence since Mr. Cabral's call for a general uprising in August 1961.

To complete this brief review of the activities of the nationalist parties in the Overseas Provinces further mention should perhaps be made of the permanent Bureau that the nationalist organizations in the Portuguese colonies set up in Rabat following the Casablanca Congress of April 1961. The Bureau is run by Mr. Marcelino dos Santos, who holds the office of Secretary-General. There is also an Advisory Committee presided over by Dr. Mario Andrade and consisting of representatives of the individual nationalist movements.[49] It should perhaps also be mentioned that, according to a recent report, a group of liberal intellectuals in Angola have set up an underground organization called the United Angola Front (Frente Unita angolana or F.U.A.) whose aim is "the liberation of Angola from Portuguese colonialism" and the country's independence.[50] The liberal Opposition has for long been well entrenched among European circles in Angola; during the 1958 presidential elections it would have assured General Delgado of a majority in the Province had the ballot been honest. It would not be surprising, therefore, if the party had considerable influence among those circles that are more open to progressive ideas, above all in university circles. The F.U.A. is said to be extending its connections in Angola, the Congo and Metropolitan Portugal and to have offered its support to the African-run nationalist parties. It has likewise been reported that three Portuguese writers, Antonio Jacinto, Antonio Cardoso and Luantino Vieira, have been arrested "on suspicion of activities favourable to the black nationalists".

IV.- Lastly, the events in Angola were not without impact on the political situation in Metropolitan Portugal. A few weeks after the rebellion broke out Dr. Salazar had to put down a revolt among his own generals. He replaced the Minister for the Army, the Minister for the Overseas Provinces and the Chief-of-Staff of the Armed Forces, and took personal charge of the Ministry of Defence. He also dismissed two military district commanders. On October 20, 1961, during the election campaign for the renewal of the National Assembly, the Opposition leaders handed Admiral Américo Tomaz, the President of the Republic, the Democratic Opposition

Candidates' Manifesto to the Nation, in which they demanded that the problem of the Overseas Territories be given "a democratic solution through the immediate application of measures to raise the level of the native populations". They attributed "the events that have occured in those territories" to the wrong-headed policy followed by the ruling circles in the Overseas Territories and the antiquated and anti-democratic measures that have been applied there".[51] However, the Opposition was practically eliminated from the contest and on November 12, 1961, the 130 National Union candidates were elected unopposed.

In spite of the Lisbon Government's authoritatian policy it would seem that a wide variety of resistance forces is now in ferment. It is difficult to foresee which way the balance of strength between the forces involved will swing. It is true that Dr. Salazar's Government has managed to hold in check a movement that, by the middle of 1961, seemed certain to sweep the Portuguse from their possessions on the African continent. It is also true that Portugal can count on firm support from the adjoining territories in Southern Africa. In a speech in Lisbon on November 4, 1961, Sir Roy Welensky, the Prime Minister of the Federation of Rhodesia and Nyasaland, assured the Portugese Government of his full sympathy. There were also rumours at that time that a secret treaty had been concluded with South Africa under the terms of which each of the two countries guaranteed the other help and assistance should its security be treatened. However, to examine the question of Portugal's Overseas Provinces in its international context demands a much broader perspective. For several years now the United Nations Organization has been engrossed with a number of problems all associated, in one way or another, with this very question. This aspect is reviewed in the following and final, chapter.

NOTES

1 Speech of May 23, 1959, S.N.I., p.12.

2 Speech of November 30, 1960, in Portugal I.R., No.6 (1960), p.362.

3 Portugal I.R., No.1 (1961), p.23.

4 Figueiredo, p.117.

5 C. Mahala, Le Portugal et les colonies d'Angola et de Guinée, in P.A., February/March 1960, p.29; B. Davidson, Angola 1961, in P.A., 3rd Quarter 1961, p.24.

6 U.N. Report, p.122.

7 Davidson, pp.229-230.

8 C. Mahala, loc. cit., p.38.

9 For information concerning the minor parties see U.N. Report, p.122 et seq.

10 The Times, May 27, 1960.

11 Davidson, article in P.A., loc. cit., p.26.

12 Addicott, p.122.

13 Addicott, p.38.

14 The Times, March 18 and May 27, 1960.

15 Le Monde, December 8, 1960.

16 Eric Rouleau, Un nouveau foyer de lutte anticoloniale en Afrique, in le Monde diplomatique, September 1961, p.7.

17 From the Lie to the Truth, in Portugal I.R., No.4 (1961), p.235 et seq.; The Attack on Portugal in Angola and in the United Nations Organization, in Portugal I.R., No.2 (1961), p.63 et seq.

18 The Economist, May 6, 1961, p.549; the Central African Examiner, June 1961, p.5; Africa Today, April 1961, p.4.

19 U.N. Report, p.34 et seq.

20 West Africa, April 29 and May 13, 1961.

21 U.N.R., May 1962, p.18.

22 Le Monde, January 11 and 12, 1962; The Times, February 23, 1962; the New York Times, February 16, 1962.

23 Portugal I.R., No.3 (1961), p.144.

24 On this question see U.N. Report, p.38 et seq.

25 C.A.B.E., pp.5-6.

26 Speech of May19, 1961, published in French by S.N.I., p.9.
27 U.N. Report, p.41; C.A.B.E., p.1.
28 U.N. Report, p.40; C.A.B.E., p.6.
29 C.A.B.E., pp.7-12.
30 Addicott, pp.37 and 113.
31 U.N. Report, p.41.
32 C.A.B.E., pp.7-12.
33 C.A.B.E., pp.7-12.
34 U.N. Report, p.41.
35 C.A.B.E., pp.32 and 34.
36 U.N. Report, p.42.
37 C.A.B.E., Appendix I, pp.21-31.
38 C.A.B.E., Appendix II, p.35.
39 C.A.B.E., Appendix III, pp.36-38.
40 The Observer, April 29, 1962.
41 Contact, May 3, 1962, p.3.
42 Le Monde, May 20/21, 1962.
43 Le Monde, March 15, 1962; le Monde diplomatique, April 1962,p.8.
44 Le Monde, April 6 and 7, 1962.
45 Figueiredo, p.117; the New York Herald Tribune, July 12, 1961.
46 Contact, July 27, 1961, p.5; the Economist, August 26, 1961, p.809.
47 Le Monde diplomatique, April 1962, p.8.
48 Tribune de Genève, April 30, 1961.
49 Contact, February 8, 1962, p.6.
50 Le Monde, May 16, 1962, p.11.
51 Le Monde, October 22/23, 1961.

CHAPTER VIII

THE OVERSEAS PROVINCES AND THE UNITED NATIONS

Reference has frequently been made to the mistrustful attitude shown by the Slazar Government towards the United Nations and international institutions in general. This attitude is, of course, the logical outcome of the Government's nationalistic philosophy. It has carried its mistrust so far as to decline all invitations to co-operate in the Technical Assistance Programme and the World Health Organization's offers of assistance in the Overseas Provinces. Portugal has been a member of the United Nations since December 14, 1955. In a recent speech before the National Assembly, Dr. Salazar pointed out that Portugal only joined the Organization after much hesitation:[1]

> Following Switzerland's wise example, the Portuguese Government's policy was not to apply for admission to the United Nations. Subsequently, at the request of Great Britain and the United States, we did apply, in deference to the argument that it was necessary to strengthen the West's position in the face of possible danger...I do not know, as yet, if we shall be the first country to leave the United Nations, but we shall certainly be among the first to do so. In the meantime we shall refuse our co-operation in anything that does not inpinge directly upon our interests.

The frame of mind in which a State applies for admission to the United Nations is of little consequence; once it has become a member it assumes the obligations concomitant with membership and first and foremost those set forth in the United Nations Charter.

Chapter XI of the Charter, comprising Articles 73 and 74 and entitled "Declaration Regarding Non-Self-Governing Territories",

places certain obligations on those "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". The provisions of Articles 73 and 74 obviously apply only to States responsible for the administration of non-self-governing territories. Once it had become a member of the United Nations, Portugal was asked to comply with the provisions in question. The Portuguese Government replied that Chapter XI of the Charter did not concern it since the territories improperly termed "colonies" were, in fact, geographically separate components of a single and indivisible nation.

Two questions therefore arise:

1. Are Portugal's Overseas Provinces "non-self-governing territories" within the meaning of the Charter?

2. If the answer to the above question is Yes, has Portugal fulfilled the obligations set forth in Articles 73 and 74 of the Charter?

Part I

ARE THE OVERSEAS PROVINCES "NON-SELF-GOVERNING TERRITORIES" ?

This question has already been approached from one aspect in Chapter I in which an attempt was made to define, in the context of Portuguese law, the extent and limits of the process of integration claimed as a fundamental principle of the Portuguese Government's policy in the Overseas Territories, namely the integration of each territory into the political unit constituting the Portuguese nation and the integration of the individual inhabitants through the unificatory influence of a common civil and political status. The question must now be re-examined in the context of international law in order to determine whether or not, as a member of the United Nations, Portugal is bound by the obli-

gations set out in Chapter XI of the Charter in respect of States responsible for administering non-self-governing territories. First we shall examine the criteria adopted by the United Nations for determining whether or not a territory is "non-self-governing". We shall then attempt to assess the validity of those criteria and to see how they apply in the case of Portugal's African Provinces.

§1. The Criteria of Non-Self-Governing Territories as Defined by the General Assembly of the United Nations

I.- When the United Nations Charter came into force, initial measures were already being taken to decolonize the Overseas Territories under French, British and Dutch administration. In some territories local governments were constituted; in others the inhabitants were awarded citizen status of such a nature as to assimilate them more or less fully to the metropolitan population. It very soon became necessary to draw a demarcation line between "non-self-governing territories" within the meaning of Chapter XI of the Charter and those to which the provisions of that Chapter were not intended to apply. This problem arose in the General Assembly in connection with the application of Article 73 (e), under the terms of which member States responsible for administering non-self-governing territories are called upon to transmit regularly to the Secretary-General certain information relating to the economic and social conditions in those territories. In the absence of any definite criterion the status of certain territories that had been granted partial autonomy or had been to a greater or lesser extent assimilated to the metropolitan country was open to debate.

It must be mentioned that at the outset the Secretary-General of the United Nations had addressed a letter to each member State requesting that it notify him whether or not it was responsible for administering any non-self-governing territory. Eight States replied in the affirmative: Australia, Belgium, Denmark, France, the Netherlands, New Zealand, the United Kingdom and the United States.[2]

The negative replies of the other States gave rise to no comment. The only problem at that time was to decide under what circumstances one or other of the eight States might legitimately cease to transmit information relating to a territory that was allegedly no longer "non-self-governing". In 1948 the General Assembly adopted resolution 222 (III) obliging member States to transmit to the Secretary-General "full information relating to any constitutional changes that would make the continued transmission of information no longer necessary". The question still remained, however, of determining which of the two parties involved, the individual State and the General Assembly, was competent to decide whether or not the "continued transmission of information" was unnecessary, in other words, whether or not this or that territory had ceased to be "non-self-governing".

The General Assembly defined its attitude on this issue in resolution 334 (IV) of December 2, 1949, in which (i) it upheld its competence

> to express its opinion on the principles which have guided or which may in future guide the Members concernced in enumerating the territories for which the obligation exists to transmit information under Article 73 (e) of the Charter,

and (ii) appointed a "special committee" to examine

> The factors which should be taken into account in deciding whether any territory is or is not a territory whose people have not yet attained a full measure of self-government.

In 1950 Indonesia became an independent republic and the Netherlands Government informed the Secretary-General that it would no longer transmit information concerning the territory. In resolution 448 (V) the General Assembly endorsed this decision. The Special Committee had meanwhile taken up its work. This proved so difficult that the General Assembly had to adopt two further resolutions, 567 (VI) of January 18, 1952, and 648 (VI) of

December 10, 1952, to define more closely the Committee's terms of reference. It was not until the Assembly's VIIIth session that the Committee finally presented its report enumerating the "factors indicative of the attainment of independence or of other separate systems of self-government".[3] The report listed three basic circumstances under which a territory could not be considered as non-self-governing: (i) if the territory was fully independent; (ii) if it enjoyed a "separate system of self-government"; (iii) if it was associated freely and on equal terms with the metropolitan territory. Each of these circumstances was closely defined by an appended list of determinate factors. On November 27, 1953, the General Assembly adopted resolution 742 (VIII) approving the report and, consequently, the list of factors proposed as the criteria of self-government. These criteria will be examined later; it must, however, be stated here and now that the Special Committee and the General Assembly both emphasized that the freely expressed consent of the peoples concerned was a prerequisite in any of the three situations posited by the report.

During its VIIIth and IXth sessions the General Assembly had frequent occasion to apply the newly-formulated criteria.[4] Porto Rico and Greenland had both been granted a large measure of self-government. The committee appointed by the Assembly to study the information received on non-self-governing territories examined the constitutional changes that had been made in the two countries. On its advice the General Assembly recognized that they had ceased to be non-self-governing territories and ruled that Denmark and the United States were no longer required to transmit information concerning them to the Secretary-General. The case of Surinam and the Dutch West Indies was initially held over; however, in 1955, during its Xth session, the Assembly duly recognized in resolution 945 (X) that the indigenous population of those territories had freely expressed acceptance of their new constitutional status and were henceforth to be considered as fully self-governing. It is to be noted that in each of these cases the General Assembly upheld its right to assess a territory's status and that that right was on no occasion contested.

II.- On December 14, 1955, sixteen States - including Portugal - became new members of the United Nations.

On February 24, 1956, the Secretary-General addressed to the Governments of the new member States the customary letter concerning the transmission of information relative to any non-self-governing territories for which they might be responsible. On November 16, 1956, the Secretary-General received twelve replies, including Portugal's. All twelve Governments stated that they had no responsibilites for the administration of non-self-governing territories.[5]

Coming from Portugal this reply may well seem surprising. However, Spain - which was likewise one of the new member States - adopted a similar attitude.

There was strong reaction among the member States and several of them attempted to raise the question of Spain's and Portugal's Overseas Territories in the General Assembly. In December 1956, during the Assembly's XIth session, the Fourth Committee proposed the establishment of a special committee to examine the application of Chapter XI of the Charter to the newly-admitted States: a proposal which behind its generality of purpose was aimed directly at the two States already named. In the General Assembly, however, the motion failed to obtain the necessary majority. During the XIIth and XIIIth sessions the question was raised again - but to no purpose. It was not until its XIVth session that the General Assembly finally realized that in view of the everquickening process of decolonization, particularly in Africa, it could not evade the problem much longer and duly endorsed the Fourth Committee's proposal. In resolution 1467 (XIV) of December 12, 1959, it recalled the provisions of Chapter XI of the Charter and its previous resolutions 334 and 742, noted that opinion was still divided as to the application of Article 73 (e) of the Charter - notably with regard to the criterion of self-government - and established a six-member committee to extend and supplement the work already done by the committee set up in 1953 by formulating

the principles which should guide Members in determinating whether or not an obligation exists to transmit the information called for in Article 73 (e).

The voting was preceded by lively debate. Although his country was not implicated by name, the Portuguese representative, Mr. Vasco Vieira Garin, violently opposed the Fourth Committee's draft resolution and maintained that only the individual State concerned was competent to define a territory's status.[6] But the motion was carried by a large majority: 54 votes to 5, with 15 abstentions.

The committee thus established submitted its report on July 1, 1960.[7] It formulated twelve principles by which to distinguish "self-governing" territories from "non-self-governing" territories within the meaning of Chapter XI of the Charter. Annexed to the report were the individual views expressed by 25 member States, including Portugal. The report was submitted to the General Assembly at the opening of the XVth session. It was first debated in the Fourth Committee which endorsed its conclusions on November 10, 1960. Twelve States had meanwhile put a motion to the Fourth Committee with a view to the immediate application of the newly-adopted criteria to the "Overseas Provinces" administered by Spain and Portugal. The debate on this motion opened on November 11, 1960. The Spanish representative, Mr. Manuel Aznar, informed the Committee that his Government was agreeable to the transmission of information relating to the Overseas Territories for which it was responsible. Only Portugal remained: the Portuguese representative, Mr. Alberto Franco Nogueira, adamantly contested the United Nations' competence in the matter. The 12-power motion - duly amended to take into account Spain's change of attitude - was nontheless adopted by the Fourth Committee.

On December 15, 1960, the General Assembly ratified by a large majority vote the decisions of the Fourth Committee on these two matters.

1. In resolution 1541 (XV) it approved the conclusions reached by the committee and, in an annex, set forth the Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for in Article 73 (e) of the Charter of the United Nations.[8]

The "principles" appended to resolution 1541 (XV) elaborated and supplemented the "factors" already listed in an annex to resolution 742.(VIII).

Both texts lay down a basic eliminatory principle, namely that a territory may only be deemed as non-self-governing if it is "geographically separate and distinct ethnically and/or culturally from the country administering it" (Resolution 1541, Principle IV; cf. Resolution 742, Appendix, Part 3, A, (iii) and (iv)). In the case of Portugal the "offlying islands" (Madeira and the Azores) may be regarded as being geographically separate but not culturally or ethnically distinct from continental Portugal.

Resolution 742 visualized three possible forms of non-dependent status; complete and total independence, a separate system of self-government, and free association. Resolution 1541 likewise makes provision for three forms of self-government; these, however, do not exactly correspond to those given above. They are defined as follows:

> Principle VI.- A Non-Self-Governing Territory can be said to have reached a full measure of self-government by:
> a) Emergence as a sovereign independent State;
> b) Free association with an independent State; or
> c) Integration with an independent State.

These indicia will be examined more closely in §3 below, where they will be viewed in the specific context of the Portuguese Provinces. It must be stressed at the outset, however, that resolution 1541, no less than resolution 742, upholds that, irrespective of the external evidence, a territory can only be said to be self-

governing if the populations involved have been consulted and have freely expressed their acceptance of the status to which they are subject. .

2. In its resolution 1542 (XV) the General Assembly took due note that the Spanish Government had undertaken to transmit to the Secretary-General information concerning the non-self-governing territories for which it was responsible; it then went on to settle, in what one might have thought to be incontravertible terms, the question of the status attributabl to Portugal's "Overseas Provinces".

> The General Assembly...
> 1. Considers that the light of the provisions of Chapter XI of the Charter, General Assembly resolution 742 (VIII) and the principles approved by the Assembly in resolution 1541 (XV) of December 15, 1960, the territories under the administration of Portugal listed hereunder are Non-Self-Governing Territories within the meaning of Chapter XI of the Charter:
> a) The Cape Verde Archipelago;
> b) Guinea, called Portuguese Guinea;
> c) Sao Tomé and Principe, and their dependencies;
> d) Sao Joao Batista de Ajuda;
> e) Angola, including the enclave of Cabinda;
> f) Mozambique;
> g) Goa and dependencies, called the State of India;
> h) Macau and dependencies;
> i) Timor and dependencies.

Except for the "offlying islands" this list corresponds to that set out in Article 1 of the Portuguese Constitution. No distinction is made between the more anciently and more recently "assimilated" Provinces.

Although resolution 1542 (XV) was adopted by an extremely large majority (68 votes to 6, with 17 abstentions), Portugal has refused to bow to it. The Government has clung to the argument

put forward by its representative in the Fourth Committee and the General Assembly and continued to contest the validity of the resolution. This problem calls for close examination. It would seem to amount to two essential questions:

What legal value is attributable to the criteria defined by the General Assembly in its two resolutions?

On the assumption that those criteria are legally valid, have they been applied correctly in the case of Portugal's Overseas Provinces?

An attempt to answer these twin questions will be made in the two paragraphs that follow.

§2. The Legal Validity of the Criteria Defined by the General Assembly

This question can be approached from two aspects: (1) Was it within the General Assembly's competence to take up the matter in the first place? (2) What legal weight have the General Assembly's resolutions?

I.- The Portuguese Government has always denied the General Assembly's competence in the matter. In the speech he delivered before the National Assembly on November 30, 1960, Dr. Salazar stated bluntly: "The General Assembly does not possess competence to declare territories of any Power non-autonomous".[9] During the debate in the General Assembly's Fourth Committee the Portuguese representative, Mr. Alberto Franco Nogueira, elaborated this argument with considerable shrewdness.[10] It was, he said, for the individual State to define, in accordance with its own constitutional rules, the status of the territories under its administration. A matter of this nature fell solely within the national competence of the State concerned, as provided in Article 2 (7) of the Charter. By taking up the matter the General Assembly was exceeding the

bounds of its competence and encroaching upon the sovereign domain of the member States. During the debate the French and Belgian delegations gave wholehearted support to the Portuguese case; though less outright in their opinion, the delegates of the United Kingdom, Australia and the United States similarly expressed doubt as to the General Assembly's right to determine on its own authority whether this or that territory should be considered as non-self-governing.[11] Several delegates, notably from the African and Asian countries, upheld the opposite line of argument; it is noteworthy, however, that none of them was able to cross swords with Mr. Nogueira on the legal plane. In general they confined their oratory to eloquent variations on the "wind of change" theme and declarations of sympathy towards the African peoples of Angola and Mozambique; Mr. Krishna Menon spoke of the Portuguese navigators and the spice trade and assured the Assembly of India's peaceful intentions with regard to Goa and of her exemplary respect for the Charter and international obligations in general. No one attempted, even obliquely, to tackle the question of principle on which the Portuguese representative based his argument, namely the General Assembly's competence to bring up the matter. Since the problem has remained unsolved, it is perhaps necessary to examine the Portuguese case more closely.

In a recent article Professor Martinho Nobre de Mello, of the University of Lisbon, has attempted to consolidate the legal basis of the Portuguese argument.[12] He examines the problem in the context of Article 73 (e) of the Charter since it was in connection with the application of that Article that the matter first arose. The fundamental principle, he says, is that only the State concerned is competent to decide whether a territory under its administration is self-governing or otherwise; the factors governing that decision derive exclusively from the country's own municipal law; and it will only transmit relevant information to the Secretary-General if it considers that the territory in question conforms to the description given under Chapter XI of the Charter. Once, however, a State has begun to transmit information concerning a given territory, it cannot cease to do so on its own authority:

it is for the General Assembly to assess whether the changes that have since been made in the territory's constitutional status are such that the territory can no longer be regarded as non-self-governing. Such was the effective meaning of resolution 334 (IV) and 742 (VIII). The Assembly had voiced its right to decide whether a State might cease to transmit information but, until 1956, had never claimed the right to decide whether a State should begin to do so. It was not until after Portugal's admission to the United Nations that the General Assembly, under pressure from the Afro-Asian bloc, introduced a radical change of practice through which it was coming to exercise what was virtually a measure of international control over the domestic affairs of States. It must be conceded that the interpretation put forward by Professor Nobre de Mello does full honour to his shrewdness of mind. To claim, however, that the General Assembly suddenly changed its policy in 1956 for no other reason than to vex the Portuguese Government is quite inadmissable. The facts of the case are a good deal simpler: from the very outset no member State had ever objected to providing the Organization with information regarding the administration of its Overseas Territories; consequently, the only question that had arisen concerned the cessation of such transmittal of information in respect of territories that had become self-governing. With the admission of Spain and Portugal to the United Nations there arose an entirely new problem, that of countries denying responsibility for non-self-governing territories when their responsibility was publicly known to exist. The General Assembly naturally took up the matter and the position it adopted, namely that it was competent to verify the nominal status of non-self-governing territories, in no way deviated from its previous attitude.

The problem thus remains as before. It can perhaps only be solved in a broader context. With this in view it may be put as follows: Has a State responsible for non-self-governing territories absolute sovereign rights over those territories within the meaning of Article 2 (7) of the Charter? Are those rights not

restricted to a certain degree by the provisions of that same Charter and of traditional international law?

The most authoritative commentators of the United Nations Charter, such as L.M. Goodrich and E. Hambro, interpret Chapter XI as being nothing less than an international charter of colonial administration - which would mean that the administration of colonial territories is no longer an exclusive province of municipal law and discretionary jurisdiction of the State responsible for them.[13] This ideabegan to germinate after the First World War. At the time of the Leage of Nations Professor Georges Scelle, in his Précis de droit des gens, developed the view that the administration of non-self-governing territories was an international function.[14] In this field, as indeed in many others, Georges Scelle was something of an innovator, and what seemed then to be far-fetched and premature has since - within the context of the United Nations Charter - become widely accepted. One of the highest French authorities on public international law, Mr. Louis Cavaré, has expressed his opinion on the matter as follows:[15]

> Colonization becomes a function. The Charter gives expression here to concepts that would now appear to have become a principle of positive law, namely that the administration of dependent territories is to be conducted in the interest of the inhabitants of those territories and not in the interest of the Powers administering them...From this situation there derives a whole series of responsibilities for the administering State, whose jurisdiction ceases to be discretionary. (emphasis added).

Professor André Mathiot, of the University of Paris, upholds and elaborates a similar view in his work on non-self-governing territories and the United Nations Charter (les Territoires non autonomes et la Charte des Nations Unies).[16] The national conception of colonization, in which the colonizing State exercises the rights won by conquest according to the rules of its own public law, is

here contrasted with the international conception, where the arbitrary jurisdiction of the State is limited by the very nature of the undertaking it has assumed.[17] In 1949, i.e. well before the problem arose in practice, the author wrote the following with regard to possible disputes as to whether a territory was non-self-governing or not:[18]

> Should difficulties arise between the United Nations Organization and a colonial Power on the subject of determining which populations are or are not self-governing, it would rest with the Secretary-General to intervene in the matter and with the General Assembly to request that the State concerned substantiate its case and, if need be, respect the obligations set forth in the Declaration.

The argument on which the Portuguese Government bases its case is seen to be incompatible with concepts that are today generally accepted in public international law. In accepting the obligations enshrined in the Charter the Members of the United Nations have agreed to limit their jurisdiction in certain fields. Such is the case with regard to the administration of non-self-governing territories. If a State responsible for non-self-governing territories is bound vis-à-vis the community of its fellow member States, it can no longer rest with that State alone to define the scope of its obligations. The General Assembly represents that community of member States and is in no way exceeding the bounds of its competence in drawing up criteria to assess the status of such territories as may, by virtue of their being administered by it, place on a State responsibilities of an international nature.

II.- If it is accepted that in adopting the resolutions referred to above the General Assembly was acting within the bounds of its competence, there remains the question of the legal weight attributable to those resolutions.

It is commonly agreed that the resolutionsadopted by the United Nations General Assembly have no binding effect on any State, regardless of the way it voted. Such is the view of Professors Marcel Sibert [19] and Hans Kelsen.[20] If this is the case, resolutions such as those referred to in the preceding paragraph are devoid of any legal weight; they do not establish rules of law and the criteria they define offer no more than guidance; consequently, the States concerned are perfectly free to accept or reject them. The conclusions to be drawn from such an interpretation are thus more or less identical with the view advanced by the Portuguese Government.

One must not, however, be misled by the seeming simplicity of such formulae for the question is in fact a good deal more complex than it might seem. It is apparent from a number of recent studies of the subject that a resolution or recommendation of the General Assembly is not necessarily, and a priori, devoid of binding force.

In an article published as long ago as 1948 Mr. F. Blaine Sloan pointed out that a recommendation of the Assembly may relate to a traditional rule of international law[21]: 1) a resolution may have declaratory value in the sense that it formulates a rule of law already in existence: this would apply, for example, to resolutions 95 and 96 (I) on the so-called "Nuremberg principles" and to resolutions 177 and 180 (II) on genocide; 2) a resolution, or a set of resolutions, may become the source of a new rule of law provided that the rule in question is generally observed and expresses the common view of the community of States. Professor Emile Giraud, of the University of Lille, has given particular attention to the decisions of the General Assembly on the interpretation of, or with a view to bridging lacunae in, the United Nations Charter.[22] He stresses that although they are only recommendations such decisions may have considerable political weight and that by delimiting the domestic preserve provided for - in the vaguest of terms - under Article 2 (7) of the Charter they may narrow quite substantially the field of national jurisdiction;

furthermore, a decision formulated in connection with a specific issue may create a precedent which would form a foundation for what would ultimately become a traditonal rule. Professor Michel Virally, of the Universities of Strasbourg and Geneva, has made a thorough study of the legal value of the recommendations of international organizations (la Valeur juridique des recommandation des organisations internationales).[23] He takes as his starting point the idea that there must be a measure of collaboration between the international organization and its member States in order to aahieve the objectives that they have set themselves. The main instrument of that collaboration is the "recommendation", by which the organization gives more concrete expression to certain aims defined in no more than abstract terms in the initial treaty. While each State may itself determine the scope of its obligations, its decisions in this matter are in no way arbitrary:[24]

> By signing the constitutive treaty the States have themselves given an international body competence to propose to them means of fulfilling their obligations. The recommendations formulated by that organization, particularly if adopted by a large majority, must be deemed as constituting a correct interpretation of what is due and proper: the States must rid themselves of the presumption that they are not bound to accede to the request addressed to them (emphasis added).

A State that declies to implement a recommendation[25]

> will be assumed to be in fault vis-à-vis the organization, unless it justifies its attitude by arguments founded in fact and law and acceptable to the organization.

In a still more recent study entitled la Supériorité du droit des Nations Unies sur le droit des Etats membres Mr. Charles Cadoux upholds that within the juridical hierarchy the Charter stands

supreme.[26] Insofar as they simply define more closely the purport of the principles set forth in the Charter - principles which the States have undertaken to observe - the recommendations have, beyond question, a measure of legal weight: this is borne out by Article 2 (2) which states that the Members of the United Nations "shall fulfil in good faith the obligations assumed by them in accordance with the present Charter". Each State naturally enjoys a certain margin of freedom in appraising and selecting the means to be employed, but it is bound by an obligation de résultat, i.e. to produce results.

There is a remarkable convergence between the findings of the foregoing authors and the view expressed by Mr. Dag Hammarskjold in the document that was to be his spiritual testament, namely the Introduction to the Secretary-General's Sixteenth Annual Report to the General Assembly of the United Nations. On the subject of the weight attributable to the Assembly's resolutions he wrote as follows:[27]

> Although the decisions, legally, are only recommendations, they introduce an important element by expressing a majority consensus on the issue under consideration... To the extent that more respect, in fact, is shown to General Assembly recommendations by the member States, they may come more and more close to being recognized as decisions having a binding effect on those concerned, particularly when they involve the application of the binding principles of the Charter and of international law (emphasis added).

To sum up, it is evident that there is no general formula for determining whether the resolutions of the General Assembly are binding or otherwise. Any resolution intended to define the scope and content of a provision of the Charter will be closely scrutinized in order to ascertain whether or not it conforms to the general aims and principles of the United Nations, to the practice followed by totality of member States and to the consensus

expressed by the organs of the world community. If it does so conform, the resolution may be said to express a traditional rule that already exists or is in process of establishment - in which case the member States are bound, if not by the resolution, by the traditional rule in question.

What is the situation as regards resolutions 742 (VIII) and 1541 (XV) and the criteria of self-government? These texts are patently intended to remove the danger of arbitrary decisions in the implementation of the provisions contained in Chapter XI of the Charter and thereby to assure the peoples of the non-self-governing territories of more effective protection, which is one of the essential aims of the Organization. It has likewise been established that all but one of the member States concerned have abided by those resolutions. Reference has already been made to the fact that Denmark, the Netherlands and the United States have all recognized the General Assembly's authority to free them from the obligation to transmit information relating to territories that had ceased to be non-self-governing. During the XIVth session France informed the Fourth Committee that it would cease to transmit information concerning those countries that had recently become independent States, self-governing territories and overseas départements; the United States likewise stated that it would no longer transmit information concerning Alaska and Hawaii, which had become states within the American Union. In December 1959, having studied the evidence submitted, the General Assembly agreed that the countries in question should be deleted from the list of non-self-governing territories. It has been seen that, though loath at first, Spain finally bowed to the Assembly's authority. As to the consensus of the Members of the United Nations, it is amply evidenced by the fact that the resolutions were adopted by overwhelmingly large majorities. It can be said, therefore, that it is not for any one Government to decide, by an arbitrary ruling made on the basis of itw own constitutional system, whether a territory under its administration is non-self-governing or otherwise. There exist in this field certain rules of positive international law which are accepted by the vast

majority of U.N. member States and of which resolutions 742 (VIII) and 1541 (XV) are simply the written expression. Those rules are hardly to be deprived of their binding force on the strength of a wanton decision by an individual State.

§3. Application of the Criteria to Portugal's Overseas Provinces

If the criteria defined by the General Assembly are accepted as being legally valid, their application to Portugal's Overseas Provinces, at least to those on the African continent, can hardly give cause for dispute.

Taken together, resolutions 742 (VIII) and 1541 (XV) list four cases in which a territory "geographically separate and distinct ethnically and/or culturally from the country administering it" cannot be considered as a non-self-governing territory, namely:

> On its emergence as a sovereign independent State;
> On its attainment of a separate system of self-government;
> On its free association, on an equal footing, with an independent State; and
> On its integration with an independent State.

As regards the Portuguese Provinces, the first and second of these hypotheses may be dismissed forthwith. It is self-evident that the Provinces are in no way independent and sovereign States, nor do they enjoy a separate system of self-government within the meaning of resolution 742 (VIII). The question of "free association" may likewise be put aside. Under the terms of resolution 1541 (XV) (Principle VII), which incorporates the essential provisions of resolution 742 (VIII) (Part 3, A, 1 and 2), free association should be "the result of a free and voluntary choice by the peoples of the territory concerned expressed through informed and democratic processes" and retain for those peoples "the freedom to modify the status of that territory through the expression of their will by democratic means and through con-

stitutional processes". The associated territory "should have the right to determine its internal constitution without outside interference, in accordance with...the freely expressed wishes of the people". It is obvious that none of this applies in the case of the Portuguese Provinces.

There remains the possibility of integration. This is defined by resolution 1541 (XV) as follows (no provision for integration was made in resolution 742 (VIII)):

> Principle VIII.- Integration with an independent State should be on the basis of complete equality between the peoples of the erstwhile Non-Self-Governing Territory and those of the independent country with which it is integrated. The people of both territories should have equal status and rights of citizenship and equal guarantees of fundamental rights and freedoms without any distinction or discrimination; both should have equal rights and opportunities for representation and effective participation at all levels in the executive, legislative and judicial organs of government.
>
> Principle IX.- Integration should have come about in the following circumstances:
> a) The integrating territory should have attained an advanced stage of self-government with free political institutions, so that its peoples would have the capacity to make a responsible choice through informed and democratic processes;
> b) The integration should be the result of the freely expressed wishes of the territory's peoples acting with full knowlege of the change of their status, their wishes having been expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage. The United Nations could, when it deems it necessary, supervise those processes.

It seems at first surprising that the Portuguese Government, which has always claimed to be a pioneer in the field of integration, declined to join issue on the matter before the Fourth Committe while the latter was examining a report accepting integration as a possible form of self-government. At the very moment when the discussion was about to open in the Fourth Committee the permanent Portuguese delegate, Dr. Vasco Vieira Garin, was speaking in the general debate at the plenary meeting. He pointed out that for five centuries Portugal had remained closely united with the overseas peoples with whom it had come into contact, that together they now formed " a single national entity" and that the Overseas Provinces were patently independent "by the very fact of the independence of the Portuguese nation".[28]

Needless to say, however, this sentimental conception of integration has nothing in common with the legal conception as defined by the Assembly. It is pointless to determine whether the equality of status and rights of citizenship awarded to the indigenous peoples of the continental African Provinces by the Decree of September 6, 1961, satisfies the conditions set forth under "Principle VIII"; the decisive "circumstances" listed under "Principle IX" are in any case non-existent. 1) None of the Provinces has attained "an advanced stage of self-government with free political institutions". 2) In none of them has the population ever had "the capacity to make a responsible choice". 3) Never have the populations been in a position to express their wishes "through informed and democratic processes"; and even less have they been able to "express their wishes freely". As to the "change of status", this has consisted mainly of the substitution of the term "provinces" for "colonies" during the revision of the Constitution in 1951.

This lack of any machinery by which the populations concerned might freely and honestly express their wishes is obviously the Portuguese system's weakest point. It is there that the shoe pinches most; the Government spokesmen have realized this and have

been careful to evade the matter. In his speech of June 30, 1961, before the National Assembly Dr. Salazar remarked:[29]

> Some speakers in the United Nations have paid scant attention to the terms of the Charter and have led others to believe that they desire no more than that the inhabitants should clearly express their preference for Portugal, forgetting that this was done long ago and is expressed and confirmed in the Constitution. This is known as "self-determination", the brilliant principle of political chaos in human societies. Even so I shall not shun examining the problem...

The line of argument is clear enough. Confronted with the crucial problem of self-determination the Head of the Portuguese Government mocks his way out of it, for, say what he might, he does indeed shun the issue; the rest of the speech is simply a verbal Cook's tour of the Overseas Provinces; the Cape Verde Islands, S. Tomé and Principe, etc., etc. He expands en route on the good works of the Portuguese administration and the demonstrative loyality of the indigenous populations; and he closes without once having come to grips with the problem. For the problem is there for all to see; when, how and by what process have the peoples of Angola, Guinea, Mozambique and the other Provinces "clearly expressed their preference" to be and remain Portuguese nationals? Has, in fact, their opinion ever been asked for? It will no doubt be answered that through their unwavering loyalty they are tacitly expressing their consent. At a time when there is open fighting in Angola and underground ferment in all the Overseas Provinces this is hardly a satisfactory answer. It would be more honest to say that the Africans are not yet adult and should not yet be treated as such; that in spite of five centuries spent under the influence of Portuguese civilization they are not yet capable of choosing their own path in a rational fashion; and that a paternally-minded administration has chosen it for them and will continue, in the best of their interests, to make decisions on their behalf.

Whatever answer may be valid from the practical point of view, to deny the political dependence of the Overseas Provinces is, from the legal point of view, an abuse of language. To the question that was put at the beginning of this chapter there can only be one asnwer, namely that the Overseas Provinces are non-self-governing territories within the meaning of Chapter XI of the United Nations Charter.

Part II

HAS PORTUGAL FULFILLED THE PROVISIONS OF THE CHARTER RELATING TO NON-SELF-GOVERNING TERRITORIES ?

The basic provisions of the Charter relating to non-self-governing territories are set forth in Chapter XI, that is to say in Articles 73 and 74. The Portuguese representative at the United Nations has on several occasions challenged the binding effect of those provisions. Speaking in the Fourth Committee on November 10, 1960, Mr. Alberto Nogueira took the following line of argument.[30] Chapter XI, he said, was entitled Declaration Regarding Non-Self-Governing Territories; it was the only chapter heading in which the term declaration appeared; it was thus meant to convey that the principles set forth in that Chapter had no binding force; consequently, the provisions of Articles 73 and 74 were simply recommendations, the application of which was left to the discretion of the member States. Furthermore, he went on, Chapter XI was flanked by 1) Chapter X, which was itself an extension of Chapter IX entitled International Economic and Social Co-operation, and 2) Chapter XII entitled International Trustteeship System: Chapter XI was distinguished from these in that the word international did not appear in its heading. The Charter thus provided for two distinct kinds of systems: international systems, such as those relating to economic co-operation and trusteeship,

and national systems, such as that relating to the administration of non-self-governing territories. These observations led, he said, to one and the same conclusion: in the spirit of the Charter the provisions of Chapter XI related to a matter that lay within the domestic jurisdiction of member States and were intended solely for the latter's guidance.

Though shrewdly put, the argument is by no means new. Since the Charter first came into effect, several States, including Belgium, France, the Netherlands, the United Kingdom and the United States, have on various occasions questioned the imperative nature of Articles 73 and 74. In his work entitled les Territoires non autonomes et la Charte des Nations Unies, published in 1949, Professor André Mathiot developed a number of decisive arguments to demolish this theory.[31] 1) Article 73 states that the Members of the United Nations "accept as a sacred trust the obligation to promote....etc., and to this end..." (emphasis added); a list then follows, under heading (a) to (e), of the actions to be taken by the member States. The word obligation is in black and white in the text: it can hardly be said, therefore, that the provisions in question are pure and simple recommendations. 2) It is true that a number of the said obligations are couched in such general terms as to leave to the States concerned a broad margin of interpretation; this applies, for example, to those set out under (a), (b) and (d); on the other hand, the obligations listed under (c) and (e) are expressed with such explicitness as to render them self-executing. 3) The provisions of the Charter are all rules of law and where the exercise of certain jurisdictions is regulated by international law those jursidictions are no longer exclusively national in character; such is the case with regard to the administration of non-self-governing territories.

Several authoritative commentators of the Charter have likewise taken this view. Professor Hans Kelsen has written that "the obligations set forth under Articles 73 and 74 are no less valid than the other obligations established elsewhere in the

Charter"; they bind all member States, including those admitted after the Charter came into effect, and any violation of them may give cause for the application of sanctions.[32] Mr. Joseph L. Kunz has stressed the imperative nature of the provisions for the transmission of information concerning non-self-governing territories and pointed out that on receipt of the Secretary-General's report, and by virtue of the right provided for in Article 10, the General Assembly has the power to discuss a question relating to the administration of any one of those territories.[33]

We may therefore pass on from these introductory remarks and examine the problem at hand. The grievances brought forward against Portugal with regard to the application of Chapter XI of the Charter may be placed under three heads: the non-transmission of information concerning the Overseas Provinces; the general conditions of administration in the Overseas Provinces; and the situation in Angola. These will now be examined in turn.

...

§1. Non-Transmission of Information Concerning the Overseas Provinces

This first question, out of which the dispute as to the constitutional status of the Overseas Provinces arose, may be quickly passed over.

Under the terms of Article 73 of the Charter member States responsible for the administration of non-self-governing territories have an obligation

> (e) 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 for which they are respectively

responsible other than those territories to which Chapters XII and XIII apply.

The chain of events that followed Portugal's receipt, in February 1956, of the Secretary-General's letter informing it of this provision has already been described; the Portuguese Government replied that there were no non-self-governing territories under its administration; a number of States reacted and the matter was raised in the General Assembly; subsequent developments led, on December 15, 1960, to the adoption by the General Assembly of two resolutions: resolution 1541 (XV), which was of a general nature and defined the criteria for determining whether or not a territory was non-self-governing, and resolution 1542 (XV) which alluded directly to Portugal and declared her "Overseas Provinces" to be non-self-governing territories. Having settled this preliminary issue, resolution 1542 (XV) went on to draw the logical conclusions therefrom:

> The General Assembly
>
> ...
>
> 2. Declares that an obligation exists on the part of the Government of Portugal to transmit information under Chapter XI of the Charter concerning these territories and that it should be discharged without further delay;
>
> 3. Requests the Government of Portugal to transmit to the Secretary-General information in accordance with the provisions of Chapter XI of the Charter on the conditions prevailing in the territories under its administration enumerated in paragraph 1 above;
>
> ...
>
> 5. Invites the Government of Portugal...to participate in the work of the Committee on Information from Non-Self-Governing Territories...

The Portuguese Government completely disregarded this resolution; it transmitted no information to the Secretary-General concerning the Overseas Provinces and boycotted the Committee on Information from Non-Self-Governing Territories. As soon as the Assembly's XVIth session had opened, the matter was taken up once more. On the initiative of the Indian delegate the question was placed on the Assembly agenda under the heading Non-compliance of the Government of Portugal with Chapter XI of the Charter of the United Nations and resolution 1542 (XV) of the General Assembly.[34] During the debate in the plenary meeting Mr. Vasco Garin once again questioned the validity of the previous resolution and accused the majority of the States present of failure to understand the traditional structure of the Portuguese nation; as before, however, he studiously evaded the real point at issue.[35] On December 19, 1961, and by an overwhelming majority - 90 votes to 3 (South Africa, Spain and Portugal herself), with 2 abstentions - the General Assembly adopted resolution 1699 (XVI) by which it

> 1. Condemns the continuing non-compliance by the Government of Portugal with its obligations under Chapter XI of the Charter of the United Nations and with the terms of General Assembly resolution 1542 (XV), and its refusal to co-operate in the work of the Committee on Information from Non-Self-Governing Territories;
> 2. Considers it necessary that, pending the fulfilment of these obligations by the Government of Portugal, the General Assembly must, for its part, continue to discharge its own obligations and responsibilities towards the inhabitants of the Non-Self-Governing Territories under Portuguese administration;
> 3. Decides to establish a special committee of seven members to be elected by the General Assembly to examine as a matter of urgency, within the context of Chapter XI of the Charter and relevant resolutions of the Assembly, such information as is available con-

> cerning Territories under Portuguese administration, and to formulate its observations, conclusions and recommendations for the consideration of the Assembly and any other body which the Assembly may appoint to assist it in the implementation of its resolution 1514 (XV);
>
> ...
>
> 5. Authorizes the Special Committee, in order that information available to it should be as up to date and authentic as possible, to receive petitions and hear petitioners concerning conditions prevaling in Portuguese Non-Self-Governing Territories.

On December 20, 1961, the Assembly named the following countries as members of the Special Committee: Bulgaria, Ceylon, Colombia, Cyprus, Guatemala, Guinea and Nigeria. On March 1, 1962, the Committee elected its officers: Mr. Zenon Rossides (Cyprus), Chairman; Mr. Achkar Marof (Guinea), Vice-Chairman; and Mr. H.O. Wijegoonawardena (Ceylon), Rapporteur. During March and April it held several meetings at the United Nations Head Quarters in New York and heard statements from four witnesses regarding the current situation in Angola and Mozambique.[36] Following a vain effort to obtain the Portuguese Government's authorization to tour the Overseas Provinces, the Committee decided to visit Africa during the month of May in order to explore possible sources of information and to enter into contact with the refugees and political organizations having their origins in the Portuguese Provinces.

Such are the fruits of the Portuguese Government's cavilling attitude towards the competence of the United Nations in the matter of its Overseas Territories. Not only has it reaped public censure (a purely moral sanction, no doubt, but one that has set a new tone in the Assembly); of greater import is the fact that instead of being personally responsible for transmitting information gathered and collated by its own officials the Government has left the field open to a committee of enquiry which will seek out the information for itself. And the very

nature of the sources on which the committee expects to draw in the fulfilment of its task would indicate that what information it receives will be devoid of any deference towards the Portuguese administration.

The Committee's mission is more than simply to gather information. It will have been noticed that the Assembly also instructed the Committee to formulate recommendations for "the implementation of its resolution 1514 (XV)". This automatically brings us to the second point under consideration.

§2. General Conditions of Administration in the Overseas Provinces

I.- Apart from the injunction to transmit information, what are the other obligations imposed by Chapter XI of the Charter on States responsible for administering non-self-governing territories?

The provisions of paragraphs (c) and (d) of Article 73, those of Article 74 and the reference to "the system of international peace and security" that figures in the opening paragraph of Article 73 may well be passed over; they concern the relations of the administering State with other States rather than with the non-self-governing peoples under its administration. With these provisions duly omitted, the essential substance of Article 73 may be said to consist of the following:

1. The priority of the interests of the non-self-governing peoples; the obligation to promote their well-being is accpted as "a sacred trust";

2. The right of the non-self-governing peoples to due respect for their culture and to educational advancement;

3. Their right to "political, economic and social advancement"

4. Their right to just treatment and to protection against abuses;

5. The obligation "to develop self-government", to take due account of their political aspirations and "to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory".

These provisions are couched, and deliberately so, in extremely elastic terms which leave each State concerned a wide margin of freedom in determining the means to be used and the time-limits to be set in the achievement of the aims set forth. They are, on the other hand, sufficiently explicit as to convey the firmness of purpose behind those aims. Moreover, as has already been seen, their binding force is unquestionable. The member States of the United Nations have agreed that their jurisdiction be limited within the fields - and bounds - provided for in the Charter. In the field of non-self-governing territories and their administration, as in that of Human Rights and their safeguards, the authors of the Charter thought it more suitable to draft broad aims only. The jurisdiction of the signatory States is limited in the sense that they are bound to frame their policy in accordance with those aims. Inasmuch as these matters have, to a certain extent, entered the realm of international law, they no longer fall exclusively within the domestic jurisdiction of the member States.[37] Professor Charles de Visscher has summarized as follows the twin "duties" assumed by States responsible for non-self-governing territories:[38]

> 1. To promote the peoples' capacity to govern themselves and to guide them in the progressive development of their political institutions...2. To bring about this gradual transformation in such a manner as not to oblige the United Nations to have recourse to coercive measures.

As is seen, the aims are extremely broad. For all that, however, a State cannot make its sovereignty a pretext for turning its back on them: to do so would be a violation of the Charter and liable to sanctions. And in fact the eight States which, when the Charter first came into effect, promptly notified the Secretary-General of their responsibility for administering non-self-governing territories have duly shaped their policies to the ends envisaged in the Charter: in fifteen years and, doubtless, by different processes they have led the majority of the peoples of those territories either to self-government or outright independence.

Where does Portugal stand? The preceding chapters are ample answer. Once assimilation is seen for what it is, it becomes evident that from the political, economic and social standpoint the Overseas Provinces, or at least those of continental Africa, are still at the "colonial" stage. Two points deserve special emphasis. The first is that so far as the peoples' interests are concerned the order of priority is the exact opposite of that provided for in the Charter: it has been shown that the economic structure of the African Provinces is based on the interests of Metropolitan Portugal and the European settlers, and that the political, administrative and labour systems are designed as accessory aids to those interests. It must be acknowledged that in recent years the Portuguese authorities have modified their policy: there have been developments in certain social services such as education and public health: the Africans have been granted - at least in theory - the same civil and political status as that enjoyed by the Metropolitan Portuguese; and conditions of work have improved. These reforms unquestionably reflect a certain honesty of endeavour. One might say that from now on due consideration is to be given to the Africans and that they are no longer to be regarded solely as a source of labour. To claim, however, from this that Portuguese policy in Africa is based exclusively on the "priority of their interests" is patently inadmissible. The second point is that,

for all the liberal-mindedness of the latterday reforms, there is absolutely no sign of even the beginnings of a trend towards the establishment of "free political institutions". On the contrary: in asserting that the Overseas Provinces are already independent by virtue of the integral independence of the Portuguese nation, the official Portuguese spokesmen appear to have dismissed the matter once and for all. The assimilation myth is a useful subterfuge but deceives no-one apart from the Portuguese themselves. For in fact one can conceive of no argument, however shrewd, that could possibly disguise the fact that the African peoples of the Overseas Provinces have never been asked to express their choice of political status.

II.- So far the question has been viewed solely in the context of Chapter XI of the Charter. It may well be asked, however, whether the provisions of that Chapter have not, in fact, been superseded by virtue of the rapid development of international law in this field. For is not the right of the colonized peoples to independence already regarded as a rule of positive international law?

The question is far from simple and all that can be done here is to gather and collate the basic material on which a definite answer might conceivably be founded. Firstly a closer look must be taken at the Charter itself. Where it alludes to the evolution of the colonized peoples towards ultimate independence it does so indirectly and in exceedingly circumspect terms. Articles 73 states that the member States responsible for governing those peoples have an obligation

> b) to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and their varying stage of advancement.

It is interesting to compare this provision with Article 76 which cites the following as one of the objectives of the trusteeship system:

> b) to promote the political, economic, social and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement (emphasis added).

This is the only paragraph in which the word independence is found.

A considerable number of U.N. member States, mainly Asian and African, have thought it desirable to have these provisions made more explicit. Their efforts to this end have been deployed in two directions.

1) First, the States in question have sought to obtain the incorporation of the right of peoples to self-determination in an instrument of positive law. In 1950 the General Assembly adopted its resolution 545 (VI) providing for the inclusion of this right in the draft Convention of the Protection of Human Rights. In accordance with this recommendation, the right of the peoples to self-determination and the obligation of member States to help assure them of the free exercise of that right were incorporated by the United Nations Commission on Human Rights in the two conventions it was then drafting, concerning civil and political rights and economic, social and cultural rights respectively. In 1954 the Commission on Human Rights submitted its two drafts to the General Assembly through the Economic and Social Council. The Assembly's Third Committee then began its work of examining the two drafts submitted. It has progressed at a distressingly slow pace. As a result of the radical opposition shown by certain States to the recognition

and/or definition of self-determination as a right, this question has proved one of the major sources of deadlock within the Committee. It has been pointed out - and there is a certain logic in favour of this argument - that reference to the right of the peoples to self-determination, which concerns relations between social groups, would be quite out of place in a text intended to define the rights of the individual person.[39] Opponents of this view claim that the right to self-determination is the essential precondition for the exercise of all other basic rights. Whatever the answer, both conventions are in any case still at the draft stage. The only texts that can be invoked in this connection are Articles 1 (para 2) and 55 (para 1) of the Charter, which state, in identical terms, that is is one of the purposes of the United Nations to develop friendly relations among nations "based on respect for the principle of equal rights and self-determination of peoples". However, this provision is much too vague to be taken as translating the colonized peoples' right to independence into the realm of positive law.

2. Secondly, the States in question have obtained the adoption by the General Assembly of a number of resolutions defining more closely the principles set forth in the Charter and proclaiming the desirability of the progressive development of the non-self-governing territories towards independence.

The first step in this direction was the adoption of resolution 742 (VIII) on November 27, 1953. In addition to approving the "list of factors" submitted as indicia of self-government, the resolution contained the following provision:

> (The General Assembly) 6. Considers that the manner in which Territories referred to in Chapter XI of the Charter can become fully self-governing is primarily through the attainment of independence...

Resolution 1542 (XV) of December 15, 1960, which related specifically to Portugal, included in its preamble the following paragraph:

> (The General Assembly) Recognizing that the desire for independence is the rightful aspiration of peoples under colonial subjugation and that the denial of their right to self-determination constitutes a threat to the well-being of humanity and to international peace.

The previous day, however, the General Assembly had adopted another resolution of far greater significance: resolution 1514 (XV) of December 14, 1960, entitled Declaration on the Granting of Independence to Colonial Countries and Peoples.[40] The draft was debated in the plenary meeting from November 28 to December 14, 1960, when it was finally adopted by 90 votes to 0, with 9 abstentions. Included in the lengthy preamble was the following paragraph:

> (The General Assembly) Believing that the process of liberation is irresistible and irreversible and that, in order to avoid serious crises, an end must be put to colonialism and all practices of segregation and discrimination associated therewith.

Whereupon the Assembly

> Solemnly proclaim the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations,

and, in the seven paragraphs that followed, laid down a series of principles. In view of their special importance two of these are quoted here in full:

> 2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
>
> ...

> 5. Immediate steps shall be taken, in trust and non-self-governing territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom.

The matter was again raised before the General Assembly at the opening of the XVIth session. On November 27, 1961, by 97 votes to 0, with 4 abstentions, it adopted resolution 1654 (XVI) by which it reaffirmed the principles set out in the "Declaration on the Granting of Independence", called upon the States concerned to comply actively with those principles, and established a Special Committee of 17 members for the prupose of making recommendations for the implementation of the said Declaration; this Committee was endowed with extremely broad investigatory powers.[41] It should be pointed out that the Assembly rejected a proposed amendment from the Soviet delegation providing for the total elimination of colonialism before the end of 1962, and that in spite of pressure from certain other delegations it declined to fix any precise date by which such territories as were still non-self-governing were to accede to independence.

The 17 members of the Special Committee were appointed by the President of the Assembly on January 23, 1962. On February 20 the Committee held its first meeting at the United Nations Headquarters in New York and elected its officers, namely: Mr. Chandra S. Jha (India), Chairman; Mr. Sory Coulibaly (Mali), Vice-Chairman; and Dr. Najmuddine Rifai (Syria), Rapporteur. The Committee began its work by devoting several months to an examination of the British-administered territories in East Africa. The members visited a number of these territories to make an on-the-spot study of the situation there. On their return to New York on June 11, 1962, they published a resolution that is due to be submitted to the General Assembly on the opening of its XVIIth session. This

resolution requests that the Assembly recognize the right of Basutoland, Bechuanaland and Swaziland to self-determination and recommend the dissolution of the Federation of Rhodesia and Nyasaland.

The question therefore arises yet again of the legal force of the General Assembly's recommendations and, above all, of resolution 1514 (XV), termed the Declaration on the Granting of Independence to Colonial Countries and Peoples.

In a recent article Professor G. Mencer, of the University of Prague, described resolution 1514 (XV) as an international document of striking significance "by virtue of its binding effect in law".[42] While the author acknowledges that it does not in itself constitute a source of international law, it is, he maintains, the expression of a certain international practice from which traditional law may be said to derive. He considers that today the self-determination of peoples should be included "among the most important principles of international law" and that "the prohibition of colonialism and neo-colonialism is recognized by the vast majority of States as a precept of international law". In an earlier article Professor Manfred Lachs, of the University of Warsaw, maintained that the right of peoples to self-determination was an essential element of universal law and that its express recognition in a convention would merely provide a more formal definition of an already established principle of law.[43]

Those who oppose this view will doubtless follow the line of argument already referred to by stressing the use of the word declaration in the title of resolution 1514 (XV). Like the Universal Declaration of Human Rights, the Declaration on the Granting of Independence is to be taken as expressing not a rule of positive law but "a common standard of achievement for all peoples and all nations". In addition there is the more general argument that the Assembly's resolutions have no binding force. One commentator has gone so far as to state that in proclaiming complete and immediate decolonization as an objective resolution 1514 (XV) violates Articles 73 and 74 of the Charter.[44]

The true solution would seem to lie somewhere between these two extremes. It is perhaps not so very dissimilar from the solution already suggested in connection with the legal weight attributable to the Assembly's resolution (see Part I, §2). It was said then that a resolution may be regarded as expressing a traditional rule if it is in keeping with the general aims of the United Nations, with the practice followed by the totality of the member States and with the consensus expressed by the organs of the world community. What is the situation in the present case? It is an unchallengeable fact that decolonization is proclaimed by Article 73 of the Charter as being one of the aims of United Nations; that over the last fifteen years the vast majority of the territories formerly under colonial administration have acceded to independence; that practically every State formerly possessing colonies has aided and promoted their emancipation? and that the recent United Nations resolutions on decolonization were adopted by overwhelmingly large majority votes. It can be said, therefore, that in this particular domain traditional international law is gradually extending its authority over what used to be the exclusive preserve of "domestic jurisdiction". With the coming into effect of the Charter a tradition began to take shape which is now so explicit and substantial as to have become a rule of positive international law. It is essential, however, to understand the precise content of that rule. To do this, and to avoid putting words into the mouth of the United Nations General Assembly, the terms of resolutions 1514 (XV) and 1654 (XVI) must be examined with care and attention. Their substance might be summarized as follows. 1) The underlying principle is that all peoples "have the right to self-determination". 2) The States responsible for the administration of non-self-governing territories should take measures forthwith to assure the indigeous peoples of those territories of the capacity to exercise that right. 3) Although they have an immediate obligation to shape and direct their policy to that end, no set time-limit is prescribed for its ultimate attainment; as has already been mentioned, in the voting of November 27, 1961, the General Assembly refused to fix any deadline

for decolonization. 4) The term "independence", as used in the title of the Declaration, is to be taken in the broad - and elastic - sense attributed to it in the "principles" annexed to resolution 1541 (XV) of Dember 15, 1960, where association and integration are accepted as alternatives to independence proper. It is a question of common sense: it is hardly reasonable to demand that each people from itself, willy-nilly, into an individual sovereign State, particularly in the case of those inhabiting extremely small territories. It should be mentioned here that the Special Committee of Seventeen responsible for watching over the implementation of resolution 1514 (XV) seems to have itself adopted an extremely guarded interpretation of the resolution.

The conclusion to be drawn from this analysis of the Assembly's resolutions is very similar to that already reached earlier in this paragraph regarding the essential import of Chapter XI of the Charter. Positive international law, as shaped by tradition and expressed in these resolutions, obliges the States responsible for administering non-self-governing territories to prepare the indigenous peoples of those territories for the free exercise of their right to choice of status. The binding force of this obligation relates to the policy trends of the administering State rather than to their concrete achievements. They are not called upon to transform the territories into independent States within a prescribed period of time but to adapt their policy forthwith to the eventuality of the territories' ultimate decolonization. They retain a wide measure of freedom as to their choice of means and instruments to that end; what they may not do is deliberately turn their back on decolonization.

What is the situation with regard to Portugal? During the plenary debate on resolution 1514 (XV) in December 1960, Mr. Vasco Garin repeated his point that in the matter of decolonization Portugal was four centuries ahead of any other country![45] by which he clearly meant that Portugal had already chosen, on the behalf of its overseas nationals, the path most favourable to their

interests, that this choice was incontravertible and that consequently Portugal had no intention of adapting its policy. This stubborn refusal to listen to the well-nigh unanimous voice of world opinion may prove a source of serious discomfort for Portugal. As has already been pointed out, the Special Committee of seven members established by resolution 1699 (XVI) of December 19, 1961, was not only charged with gathering the information on the Overseas Provinces that Portugal itself refused to transmit; it was also called upon to "formulate its observations, conclusions and recommendations for the consideration of the Assembly and any other body which the Assembly may appoint to assist it in the implementation of its resolution 1514 (XV)." The Committee has fully understood the nature of the task placed before it and in a statement made on March 13, 1962, it announced its intention of submitting a number of recommendations to both the General Assembly and the Committee of Seventeen charged by the Assembly with examining the application of its Declaration on the Granting of Independence.[46] In other words, the Committee of Seven intends to plunge into the very heart of the matter and itself draw up a plan for the decolonization of the Portuguese Provinces. By its own default the Portuguese Government appears once again to have left the field wide open to a United Nations organ which, by initiating measures in its stead, will deprive the Government of the merit that might in many respects have worked so much in its favour.

§3. The Question of Angola

I.- To begin with, a brief account must be given of the United Nations' increasing preoccupation with the Angola issue.

On February 20, 1961, i.e., more than three weeks before the outbreak of the rebellion, the delegates of Liberia, Ceylon and the United Arab Republic submitted a draft resolution demanding that the question of the situation in Angola be brought

up before the Secutiry Council. This step was motivated by the events in Luanda earlier that month. The Security Council discussed the question for several days. Mr. Vasco Garin explained that in the Portuguese Government's view the matter was of a purely domestic nature and, as such, lay outside the competence of the Security Council; in any case, he added, it had no bearing on international security. On March 15, 1961, the draft resolution was put to the vote. Only five members voted in favour: the other six, including three of the permanent members, abstained. Having failed to obtain the requisite majority, the draft was rejected. That same day - March 15, 1961 - the revolt broke out in Angola. The Portuguese Government stated that several delagations in the Security Council know of the massacres committed simultaneously at various points in the Congo District in the early hours of that day even before news of them reached Lisbon; which contention implied that a number of African Governments had been aware of the secret preparations to launch the rebellion.[47]

The Liberian delegation then attempted to bring the matter up before the General Assembly and submitted a motion to that effect signed by the delegates of 39 African and Asian States. Despite the opposition of the Portuguese delegate, the matter was placed on the agenda and debated in the plenary meeting on April 20, 1961.[48] By a vote of 73 to 2, with 9 abstentions, the General Assembly adopted resolution 1603 (XV) in which, having recalled its previous resolutions 1514, 1541 and 1542 of December 14 and 15, 1960, it

> Calls upon the Government of Portugal to consider urgently the introduction of measures and reforms in Angola for the purpose of the implementation of General Assembly resolution 1514 (XV.) with due respect for human rights and fundamental freedoms and in accordance with the Charter of the United Nations;
>
> Decides to appoint a sub-committee consisting of five members to be appointed by the General Assembly and

> instructs this sub-committee to examine the statements made before the Assembly concerning Angola, to receive further statements and documents, to conduct such enquiries as it may deem necessary and to report to the Assembly as soon as possible.

On May 22, 1961 the President of the Assembly appointed the five members of the Sub-Committee, namely: Mr. Carlos Salamanca (Bolivia), Chairman; Mr. Ralph Enckell (Finland), Vice-Chairman; Mr. Nik Ahmad Kamil (Malaya), Rapporteur; Mr. Omar Abdel Hamid Adeel (Sudan) and Mr. Louis Ignacio Pinto (Dahomey).

Meanwhile the situation in Angola had worsened, and on May 26, 44 States requested that the Security Council take up the matter. This was duly done and June 6 saw the beginning of a heated four-day debate.[49] The Liberian and U.A.R. delegates violently attacked Portugal's colonial policy and pointed to the dangerous repercussions that the Angola affair might have on the world at large. Having exposed the atrocities committed by the rebels and laid the blame at the door of certain malevolent forces outside of Portugal, Mr. Vasco Garin stated that the situation in Angola was in any case returning to normal. The Chilean representative pointed out, very aptly, that while awaiting a report from the enquiry Sub-Committee the Council should refrain from any fundamental judgment of the issue. On June 9, 1961, the Security Council adopted, by 9 votes to 0, with 2 abstentions, resolution S/4835 by which it

> 1. Reaffirms General Assembly resolution 1603 (XV) and calls upon Portugal to act in accordance with the term of that resolution;
> 2. Requests the Sub-Committee appointed in terms of the aforesaid General Assembly resolution to implement its mandate without delay;
> 3. Calls upon the Portuguese authorities to desist forthwith from repressive measures and further to extend every facility to the Sub-Committee to enable it to perform its task expeditiously;

4. Expresses the hope that a peaceful solution will be found to the problem of Angola in accordance with the Charter of the United Nations;
5. Requests the Sub-Committee to report to the Security Council and the General Assembly as soon as possible.

As is seen, the Security Council's recommendation added nothing really new to the situation. At this point the matter passed into the hands of the enquiry Sub-Committee which at its initial meeting, held on May 26, had decided to contact the Portuguese Government. On June 20, in reply to two letters from Carlos Salamanca, the Sub-Committee chairman, the Portuguese Government upheld its reservations as to the competence of the Assembly and the Security Council to enter into a matter that fell exclusively within its own internal jurisdiction; it consequently refused to authorize the Sub-Committee to enter Angolan territory for the purpose of conducting its enquiry; on the other hand, however, it extended an invitation to the chairman of the Sub-Committee to visit Lisbon where the necessary facts and information would be placed at his disposal. With the consent of his fellow members Mr. Carlos Salamanca duly went to Lisbon where he stayed from July 16 to 22, 1961. He was received by Dr. Salazar, by Mr. Alberto Franco Nogueira (the Foreign Minister) and by Mr. Adriano Moreira (Minister for the Overseas Provinces); he was provided with substantial information and documentary material but was unable to shake their opposition to an on-the-spot enquiry. Under these circumstances the best thing that the Sub-Committee could hope todo was to gather what evidence and information were available outside of Angola. To this end three members of the Sub-Committee visited the Republic of the Congo (Leopoldville) from August 9 to 18 where they received statements from Angolan refugees, members of opposition parties in exile, and representatives of the International Red Cross and various other international organizations, both public and private. Having exhausted all sources of information to which it had access, the Sub-Committee drew up its report. This document, numbered A/4978 and dated November 22, 1961, was submitted to the Presidents of the General

Assembly and the Security Council. Many references have already been made to this report in previous chapters. Its conclusions may be summarized as follows.[50] The Sub-Committee deplored the acts of violence committed in Angola against Portuguese and against Africans; it noted that the situation was tending to worsen and affirmed its readiness to seek a peaceful solution. It took due note of the recent legislative reforms which reflected a sincere effort on the part of the Portuguese Government to adjust its policy; it pointed out, however, that their practical effect was limited and that they were far from meeting the aspirations of the majority of Africans. It was convinced that constructive co-operation between the Government of Portugal and the United Nations was "the best means of bringing about a prompt end to the conflict and a peaceful evolution towards the objectives stated in the United Nations resolutions".[51] The report closed on the following note:[52]

> The Sub-Committee feels that a peaceful solution of the Angolan problem requires not only a drastic reform of legislation and administration but also the formulation of plans to prepare the territory for self-government and the exercise of self-determination. It would emphasize, in particular, the need for a rapid and massive expansion of educational facilities in order to enhance the economic, social, and political advancement of the territory...The Portuguese authorities face a historic choice: whether to continue to rely on the use of force, with the inevitable miseries, economic losses, and uncertainties; or to respond to world opinion and take measures to reassure the population, ensure the return of the refugees, and build a new relationship with the people of Angola. Much time has been lost in a critical situation, with the casualties and the bitterness mounting in Angola. What is needed is readiness to understand the new forces in the world, courage to accept change, and

wisdom to formulate and pursue viable means towards an enduring peaceful solution.

The submission of the Sub-Committee's report sparked off further discussion during the General Assembly's XVIth session. On January 15, 1962, Mr. Carlos Salamanca explained before the plenary meeting the conclusions reached in the report. Mr. Vasco Garin opened the general debate by contesting the legality of the proceedings and the United Nations' right to intervene in what was no more than an internal police action. Having stated that his delegation would not take part in the debate, he and his collegues duly walked out of the meeting. The following day he had a memorandum distributed in answer to the report; in it he challenged the impartiality of the Sub-Committee and the veracity of its information. Several subsequent speakers demanded the application of sanctions against Portugal. While stressing their full agreement with the principle of self-determination, the United States and United Kingdom representatives endeavoured to guide the Assembly into the path of moderation. On January 30, 1962, after a long and often heated debate spread over 15 meetings, the General Assembly adopted resolution 1742 (XVI) by 99 votes to 2 (Spain and South Africa), with 1 abstention (France). Having deplored Portugal's denial of full cooperation to the Sub-Committee, its continued refusal to recognize Angola as non-self-governing territory and its failure to apply the measures recommended by resolution 1514 (XV), the General Assembly expressed the conviction that the Portuguese Government's attitude constituted "a permanent source of international friction". Furthermore, the Assembly

> 2. Solemnly reaffirms the inalienable right of the Angolan people to self-determination and independence;
> 3. Deeply deprecates the repressive measures and armed action against the people of Angola and the denial to them of human rights and fundamental freedoms, and calls upon the Portuguese authorities to desist forthwith from repressive measures against the people of Angola;

4. Appeals to the Government of Portugal to release immediately all Angola political prisoners wherever they may be held;

5. Urges the Government of Portugal to undertake, without further delay, extensive political, economic and social reforms and measures, and in particular to set up freely elected and representative political institutions with a view to transfer of power to the people of Angola.

In conclusion the Assembly decided to continue with the Sub-Committee, requested the member States to deny Portugal any support that might be used for purposes of suppression in Angola, and requested the Portuguese Government to submit, at the Assembly's XVIIth session, a report on the measures it had undertaken "in the implementation of the present resolution".

II.- It is obvious here and now that Portugal will undertake no such measures and submit no such report. The whole question threatens, therefore, to become dangerously embittered. It must be remembered that resolution 1742 (XVI) was a compromise resolution and that the United States and the United Kingdom exerted all their influence to persuade the Asian and African States to express their feelings in moderate terms. Under the present circumstances tension seems likely to build up considerably between now and the General Assembly's coming session. Angola is now under crossfire from no less than three separate organs established by the General Assembly: the five-member Sub-Committee on the Situation in Angola, which is being maintained; the Committee of Seven, whose field of enquiry covers Portugal's Overseas Provinces in toto; and the Committee of Seventeen which is responsible for supervising the application of resolution 1514 (XV) and is at perfect liberty to concern itself with the Portuguese Provinces. Moreover, African opinion is becoming more and more sentative to the situation. It sees in Portugal's policy in Angola an outright rebuttal of its most common and heartfelt aspirations. Furthermore, the manifest solidarity between Portugal, South Africa and, to a

lesser degree, Spain in the voting in the General Assembly has every appearance of collusion.

Let us turn to resolution 1742 (XVI). It expresses the attitude taken by the General Assembly, in the light of the Sub-Committee's report, towards the Portuguese policy in Angola.. Its moderation of tone does little to soften the bluntness of its censure. It makes four essential points: 1) Angola is a non-self-governing territory: Portugal is at fault in denying the evidence to that effect; 2) as in any other non-self-governing territory, the indigenous population of Angola has the right to the free determination of their political status; 3) Portugal has done nothing to pave the way for the transfer ofpower to freely elected and representative institutions; 4) it seeks to crush the Angolan people's claim to independence by repressive measures and armed action.

In resolution 1699 (XVI) of December 19, 1961, the General Assembly had condemned in broad terms the Portuguese Government's refusal to transmit to the Secretary-General information concerning the Overseas Provinces as provided by Article 73 (e) of the Charter. In resolution 1742 (XVI) of January 30, 1962, the Assembly went considerably further and, in the context of the administration of a specific Overseas Province, pointed to a failure to recognize the basic principles underlying the provisions of the Charter and positive international law. Is this condemnation justifiable? Viewed from the legal aspect, this question has already been answered in the preceding paragraph: by refusing to initiate a process of decolonization Portugal is running counter to a - by now - firmly established rule of customary international law, a rule which is, moreover, in perfect concord with the general principles of the United Nations Organization. In the realm of fact, the Assembly has based its judgment on the information gathered by the Sub-Committee. The Portuguese Government has accused the Sub-Committee of partiality and of indiscriminate accpetance of all allegations made against its administration. It has already been pointed out, however, that the Sub-Committee

could only draw its information from such sources as were accesible and that the nature of those sources was largely, if indirectly, determined by the Portuguese Government itself. Moreover, the Sub-Committee did not omit to acknowledge the progress embodied in the liberal reforms of 1961 or to censure the acts of violence committed in the course of the disturbances by the African rebels. It would undoubtedly have been to the good if the condemnation voiced by the Assembly had been less one-sided and, having deprecated "the repressive measures and armed action against the people of Angola", the Assembly had then made at least some reference to the acts of savagery committed by the rebels during the early days of the uprising; for the repressive measures in question were only undertaken in answer to the atrocities perpetrated by the rebel forces. The fact remains, however, that in both form and intensity the measures to suppress the revolt went far beyond the bounds of humanity within which they should have been contained.

In his speech of January 3, 1962, before the National Assembly, Dr. Salazar had some bitter words to say regarding the United Nations: the Organization, he said, had "allowed itself to be overrun by an unruly horde of States", had condemned Portugal's colonial policy but had done nothing to stop or penalize India's act of aggression against Goa and the other Portuguese enclaves. This bitter accusation is perfectly justified, and the United Nations failure to take action in the Goa affair has dangerously shaken its authority. It is likewise true that India's spokesmen at the United Nations are no longer qualified to give coaching lessons either to Portugal or to any other State on the subject of respect for the Charter and the safeguard of Human Rights, and that when questions of this nature come to be debated in the Assembly they will do better to observe modest, and prudent silence. On the other hand, however, the attack on Goa does not excuse the over-violent repressive measures taken in Angola or the inveterate disregard for the Charter and positive international law exemplified by the system of administration in the Overseas Provinces.

N O T E S

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3 Document A/2630, pp.22 and 23.

4 Repertory U.N. Practice, Vol.IV, pp.67-74; Supplement No.II, pp.163-170

5 Repertory U.N. Practice, Supplement No.II, p.153.

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7 Document A/ AC/ 100/ 1.

8 Document A/4684, pp.29 and 30.

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CONCLUSION

P O R T U G U E S E A F R I C A A N D T H E R U L E O F L A W

We have now to bring the present study to a close by reviewing the facts and evidence set out in the preceding chapters in the light of the general principles of the Rule of Law in order to ascertain the extent to which the political, economic and social situation of the African populations of the three Portuguese Provinces of continental Africa meets, or fails to meet, those norms.

I.- Our task will perhaps be made easier if we begin by clarifying what exactly is meant by the Rule of Law.

1. That we speak of the Rule of Law itself implies a certain sovereign pre-eminence. Pre-eminence over what? There are two possible answers: (i) the individual person (i.e, the governed, taken separately or as a whole) and (ii) the State (i.e., the governing and the agents of government seen as a body). In the case of the first the Rule of Law means that the citizen is bound to observe the law, both materially and formally, that the law has binding effect on those to whom it applies, or, in other words, that the law is the law. Whichever way it is put, this concept leads to mere truisms. It must therefore be put aside in favour of the second concept. The Rule of Law can have, in fact, no other meaning than that the State is subordinate to law. It embodies and upholds the concept that those who govern and implement government - by which is meant the organs not only of executive and administrative power but also of legislative and even constituent power - are bound to observe certain rules and principles of law. It means that within each State, and at the very summit of its legal fabric, there exist rules and principles that transcend

not only ordinary law but the constitution itself. The concept of a Law both antecedent and superior to the State is the exact antithesis of the Hegelian theory, which upholds that all law derives from the State. A fundamental element of the Rule of Law thus stands revealed: it is associated with the existence of certain rules and principles which, within each State, occupy the highest possible level of the legal order.

2. Once ascertained, this initial element is found to be qualified by another. At this level of the legal hierarchy the bounds of each State's individual jurisdiction are transcended. However, the general rules and principles of law are only deserving of this transcendent supremacy if they are recognized by, if not all, at least the majority of States. The supremacy of those general rules and principles is thus wedded to, and dependent upon, their universality. This is the essential difference between the concept of the Rule of Law that we are attempting to define and the various national and regional concepts peculiar to specific legal systems. Thus it is that the specifically British concept of the Rule of Law - shaped by custom out of the centuries-old practice of the courts, and retrospectively rationalized into conscious theory by Dicey - has no sense outside the framework of British political and judicial institutions.[1] Though it has largely survived transplantation to the United States and those Asian and African countries where Common Law has exerted a more profound influence, this has only been achieved at the cost of various adaptions as well as certain changes brought about under the impact of the national institutions of its adoptive countries. Similarly, the system of socialist legality that has come to exist in the Eastern European countries is closely bound up with a certain method of political and economic organization and as such - irrespective of what one may think of it - cannot pretend to universality, at least not as the world stands at present. It is an essential property of the general rules and principles inherent in the concept of the Rule of Law that they are not associated with any one legal, political or economic system but are recognized by and acceptable to everyone everywhere.

3. The idea of universitality, which seems to be the very keystone of the Rule of Law, calls for closer examination. It might at first be thought that the general rules and principles of law derive from the "eternal" features of human nature - both individual and social - and that consequently they are intransmutably valid not only in space but also in time. Such a view reverts, in fact, to the Thomistic concept of Natural Law. It was perfectly plausible to uphold this theory in thirteenth-century Europe. It is utterly amazing that it should come back into favour in the world of today. One would have thought that the teachings of anthropology, sociology and psychoanalysis had by now been so popularized - far beyond, it would seem, the closed world of the specialist - as to have rid the human sciences once and for all of the belief in "human nature". To those who speak of this ubiquitous and timeless "human nature", this putative mother of us all, we can only reply, in the words of Joseph de Maistre: "Quelle est cette femme?" If we abandon the mythical and instead embrace objective reality, we are led to a conception of the Rule of Law that might be described as sociological, historical or relativist. There is no such thing as "human nature". What does exist in certain groups, collectivities and human societies at specific moments in history. Within each group and at any given time certain values may be regarded as dominant in that they are, if not unanimously, at least generally accepted; they are reflected in the prevailing political, legal and economic institutions. The sphere of influence of those values will naturally vary; it may extend over a plurality of national groups or even, at a given stage of history, embrace all human societies. It is in this sense that one may speak of general rules and principles of law. It must be understood that these rules and principles are not immutable archetypes or disembodied entities comparable to Platonic Ideas, but are conditioned by the social milieu as it exists at any given stage in its development. Characterics that dominate today may be obsolescent tomorrow. It is difficult to quote concrete examples without their seeming trite and commonplace. One might say, however, that up to the beginning of the

19th century this "universal cosciousness" - the term is used, for want of a better, to represent the dominant feeling prevailing among a broad majority of national groups having mutual relations - legitimized military conquest; that in the course of the 19th century it came to reject all but colonial conquest; that in more recent times it has in turn rejected the conquest of colonies while continuing to countenance their possession and administration; and that today it is more or less completely opposed to colonization in any form. It can therefore be said that the concept of the Rule of Law implies the existence of a universal or quasi-universal consensus in respect of a certain scale of values at a given moment in history.

4. It might be argued that the definition adduced above is self-contradictory. It has been emphasized that the dominant values within a given social environment are relative inasmuch as they are determined by the conditions of that environment. If this is so, and in view of the wide diversity of coexistent milieux, does it not in itself rule out the possibility of ever attaining to a truly universal consensus, even on a limited number of values? It is true that until a very short time ago it was only possible to speak of a "universal" consciousness and "universal" values by distortion. The "universe" referred to did not extend beyond the "civilized" world, which meant the European nations and their overseas extensions.[2] However, since the advent of "the age of the complete world", as it has been called, the concept of a "universal consciousness" may be said to have taken on a new sense. In the space of a few years the forgotten peoples of Africa, Asia and Latin America have broken surface in the midst of this newly "complete" world and have taken their places in the universal community of nations. The resultant interactions and intercontinental relations have proliferated at such a pace that today one can truly speak of an oecumenical community of which the United Nations Organization may be regarded as the concrete expression. For the first time in history, conditions are favourable to the emergence of genuinely universal values and the establishment of unanimously

recognized rules and principles. The inevitability of such a development would appear to be endorsed by Pierre Teihard de Chardin:[3] one of the major themes of his philosophy is that although, like all other branches of the living world, human societies have evolved along divergent paths, they are uniquely and characteristically human in that at a certain stage these paths of evolution become less and less divergent and at a subsequent point of time begin slowly but surely to converge.

5. The emergence of universal values seems possible at the present stage of human development. But do such universally recognized values exist in fact? Let us put the question in more concrete terms. The legal rules and principles that would stem from such values would have precedence over all others, and within the limits of each national territory the organs of the State would be bound to observe them. The jurisdiction of the State may be limited from two point of view: vis-à-vis its own subjects and vis-à-vis other States. Do there exist, in either of these fields, universally recognized rules and principles?

a) As regards the internal domain, there exists a document which, by its very title, is unconditionally universal in purpose: the Universal Declaration of Human Rights, unanimously approved by the United Nations General Assembly on December 10, 1948. The opening paragraph runs as follows:

> 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.

Regardless of the diversity of their political, economic and social systems, their culture and traditions, all States which at that time were members of the United Nations solemnly affirmed, through their representatives present in the Assembly, their adhesion to the thirty Articles that make up the Declaration. For the first time in the history of mankind a list of principles was drawn up in writing and recognized as applying equally to both Republican and Monarchist Governments, to both Socialist and Liberal regimes, and to all peoples, be they of Christian, Islamic, Buddhist or Brahminical tradition. It would be pointless to question the sincerity of the member States' adhesion to those principles; the essential thing is that it has been placed on record. The future alone will show whether the adoption of the Universal Declaration of Human Rights was a precursory sign of that ultimate and still far-distant point of convergence envisaged by Teilhard de Chardin.

b) As regards the external domain, it has always been accepted that the jurisdiction of the State is bound by both customary and treaty law at the international level. The general principles of international law are thus an integral part of that body of rules which forms the very fundament of the Rule of Law. This important point must be made quite clear. There was a time when one might have questioned the existence, in the field of international law, of any single body of rules overlying those of the individual nations and maintained that there were simply national systems of standard rules adopted by the various States in their mutual relations. For as long as the guiding principles of international law remained purely customary, with each State enjoying a wide margin of freedom in its appraisal and interpretation of them, this argument was perfectly tenable. This is no longer the case. With the formulation of those principles in treaty form, namely in the Covenant of the League of Nations and, above all, the Charter of the United Nations, all previous arguments ceased to apply. The written provisions of the Charter and the customary law that has come to exist through their day-to-day application over the last fifteen years or so are unquestionably part of a

legal fabric superior in authority to the individual State.

The United Nations Charter, the customary law deriving from the application of the Charter, and the Universal Declaration of Human Rights: these would seem to form the constituent elements of a legality superior to the individual member States.

6. It must be stressed that the existence of universal values embodied in certain legal rules superior to the State is in no way prejudiced by the absence of an institution competent to penalize any failure to observe those rules. Mistaken belief to the contrary has led some parties to contest, for example, the legal validity of the Universal Declaration of Human Rights. It is true that at the moment there exists no institution having competence, at the international level, to apply sanction in respect of any violation of the provisions of the Declaration by Governments or agents of government within a State. It is likewise true that even within the United Nations the sanctions to suppress acts in violation of the Charter are still imperfect and problematical: for all that, however, there is no question as to the binding nature of the Charter. Since the Universal Declaration was framed and adopted in implementation of Article 55 of the Charter, the mere absence of sanctions cannot be taken as in any way impairing its legal weight. Professor Alfred von Verdross has the following to say in this connection:[4]

> In proclaiming the international protection of human rights as a principle, the Charter recognizes that the matter is no longer of a purely domestic nature but one which, so far as the rules applicable to it are concerned, has entered the realm of international law...The Charter has thus well and truly recognized that the protection of human rights no longer lies within the jurisdictional preserve of the individual State.

The European Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on November 4, 1950, by the 15 States members of the Council of Europe, marks a much more advanced stage in the development of supranational legality. The purpose of the Convention is again to limit the independent jurisdiction of the signatory Governments within the legal framework of their respective States vis-à-vis their respective nationals. In this case, however, the rules are incorporated into international treaty law and their application is guaranteed by concrete institutions and sanctions. Within the framework of the United Nations the protection of human rights is still far from this stage. However, developments are in hand. The provisions of the Universal Declaration are themselves destined to become part of international treaty law; the Third Committee of the General Assembly is at present engaged in drafting two conventions. If these conventions provide for the application of sanctions then, with their approval and ratification by the member States, the protection of human rights will have attained the highest possible measure of integration into the realm of international treaty law. All we have at the moment is a text devoid of any provision for sanctions, viz. the Universal Declaration of Human Rights. It must be repeated, however, that this absence of sanctions does not mean that the Declaration is devoid of legal weight. Its weight resides in the fact that it is the expression of a universal consensus on the value of certain rules and principles and constitutes a formal recognition by the totality of U.N. member States of the supremacy of those same rules and principles.

It may be said therefore, by way of conclusion, that at the present stage of development reached by human society there exists a body of universally recognized values; that these values find expression in a number of legal rules and principles which the States are bound to apply, with or without the threat of sanctions; and that the concept of the Rule of Law derives from, and affirms, the superiority of these rules and principles. This supreme Law may be said to consist, in substance, of the United Nations Charter, the general customary principles of international law - at least

insofar as they relate to the interpretation and application of the Charter - and the Universal Declaration of Human Rights. So much is certain. It would be unwise to push the list any further: to do so would be perhaps to cite no more than vague and arbitrary rules which in any case fail to meet that essential precondition, namely their universal acceptance.

...

II.- Let us return, after this long detour, to the situation in the Portuguese Provinces of continental Africa. The question to be answered is whether or not the Portuguese Government's general policy and system of administration respects and observes the Rule of Law as defined above.

As regards the United Nations Charter and the customary law relating to its application, the question has already been answered in Chapter VIII. It was shown that ever since its admission to the United Nations Portugal has systematically disregarded the clear and explicit provisions of Article 73 (e) of the Charter; and that in its administration of the Overseas Provinces in general, and of Angola in partcular, it has deliberately ignored the written and customary provisions calling upon States responsible for non-self-governing territories to direct their policy in such territories to their ultimate self-government or independence.

There remains the Universal Declaration of Human Rights. The principles of Portuguese policy must now be examined in the light of the provisions of that Declaration.

These provisions fall into two groups. A number of them are negative in character and are designed to protect man's civil and political rights, that is to say the traditional freedoms of the individual. Others are designed to protect man's economic, social and cultural rights; this protection may go so far as to demand positive dispensations. As will be seen, the Portuguese administration system stands in open conflict with a considerable number of these provisions.

1. Civil and Political Rights.

The Fundamental Principle of the Freedom of the Individual, Equality and the Prohibition of all Forms of Racial Discrimination.

> Article 1.- All human beings are born free and equal in dignity and rights...
>
> Article 2.- Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour...
> 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 this territory be an independent, Trust, Non-Self-Governing Territory, or under any other limitation of sovereignty.

In this regard Legislative Decree No.43,893 of September 6, 1961, abolishing indigenous status in Guinea, Angola and Mozambique, marks a considerable step forward towards the total abolition of racial discrimination. It has been seen, however, that much legislation remains in force that either provides for discrimination or contains references to the existence of a discriminatory system: this is found above all in the Constitution and the Organic Law of June 27, 1953. Moreover, the Portuguese Government has itself admitted that a massive recasting of the legislation is needed to bring it into line with the new situation created by the disappearance of indigenous status. A new labour code for the Overseas Provinces is known to in preparation. It is impossible to foresee how and to what extent this new code will differ from the old; and until it is promulgated African labour will continue to be governed by the 1928 Code which, by definition, is applicable to natives i.e., discriminatory. It must also be recalled that in criminal matters a special penitentiary system for African offenders was established by a decree of December 29, 1954; and that in the field of taxation the native head tax is still leviable - under a

variety of names - and its recovery may give rise to the application of physical sanctions.

Freedom of Movement.

> Article 13.- Everyone has the right to freedom of movement and residence within the borders of each State.

Under the Decree of May 20, 1954, Africans were forbidden to travel even within their respective circumscriptions without prior authorization from the chefe de posto. The fact that this Decree was repealed on September 6, 1961, does not mean that the African now enjoys complete freedom of movement. It has been seen that the caderneta system, as provided for by the 1928 Labour Code (Articles 87-94), enables the administrative authorities to control both the acitivities and movements of all Africans; furthermore, under local implementing legislation, an African wishing to absent himself for even a short period from his habitual place of residence is still obliged to procure a pass.

The Right to Life and Security of Person.

> Article 3.- Everyone has the right to life, liberty and the security of person.

The measures undertaken by the Portuguese army, police and administrative authorities to quell the resistance movements in the African Provinces and put down the rebellion in Angola have already been outlined in Chapter VII. It will no doubt be said that the rebels fired first. That fact does not excuse the excessive violence of the repression - which appears all too often to have struck at the innocent when the guilty were not at hand - or the atrocities committed by the militia units which were armed by the Portuguese forces even when they excaped the latter's control.

The Richt to Guarantees of Fair and Equal Justice.

> Article 9.- No-one schall be subjected to arbitrary arrest, detention or exile.
>
> Article 10.- Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.
>
> Article 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.

An emergency situation such as that existing at present in Angola may justify the suspension of certain judicial guarantees and must therefore be left to one side. Account is taken solely of the judicial system as established under the most recent legislation and applying to Portuguese Africa as a whole. It has been seen that under the system created by the Decree of May 20, 1954, Africans were justiciable before special courts and that, in practice, the chefe de posto exercised the functions of both judge and administrator. A Decree of September 6, 1961, instituted a new system: from now on all Portuguese subjectsin the Overseas Provinces - irrespective of race - come under the jurisdiction of the same courts. This marks a sizable step towards the attainment of fair and equal justice for all. It has been noted, however, that at the level of the municipal courts and "courts of the peace" the administrative and judicial functions are still exercisable by one and the same person, and that in any case considerable difficulties stand in the way of the practical establishment of the new courts envisaged. Furthermore, discriminatory practices with regard to African offenders have become firmly established outside of the law. The authorities have allowed what might be called, in all senses of the term, "rough" justice to become the customary practice at the lower levels of the administration. On their own

authority and without any proper process of law the chefes de posto impose penalties for which there is no provision in any legislation, e.g., internment in labour camps. It will doubtless cost the higher authorities considerable time and effort to eliminate such time-worn traditions and enforce due respect for the law among the lower-ranking administrative officials.

Prohibition of Inhuman Treatment.

> Article 5.- No-one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Here again, states of emergency must be discounted. It is practically certain that in Angola atrocities have been committed by both sides. Of more lasting relevance to this question are the day-to-day practices that have come to be established, outside of the law, at the level of the administrative posto. The infliction of corporal punishment on the African, notably by use of the palmatorio, is an age-old tradition of Portuguese administration, and it will take more than a mere reform of the legislation to put an end to practices for which it does not provide.

Freddom of Expression and Assembly.

> Article 19.- Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.
>
> Article 20.- (1) Everyone has the right to freedom of peaceful assembly and association.

The measure of freedom enjoyed by the African inhabitants of the Overseas Provinces is obviously no greater than that of the metropolitan Portuguese. Consequently, the establishment of press censorship and the prohibition of non-conformist political parties in Portuguese Africa has called for no special discrimina-

tory legislation on the part of the Central Government. On the other hand, under a Decree of June 1, 1954, special restrictions have been imposed on the right to free association in the Overseas Provinces. It has also been seen that the increasing activity of the Opposition forces has led to an extension of the de facto power wielded by the political police and that the P.I.D.E. has cast a particularly vigilant and active network over the African Provinces.

Political Rights.

> Article 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.

The Decree of September 6, 1961, would seem to have granted the African the same political rights as those of the metropolitan Portuguese. In point of fact, however, the conditions for the electorate are such that the right to vote remains the privilege of an extremely small minority, and the paucity of educational facilities makes appointment to public office impossible to all but a tiny élite. This situation is capped by the fact that the National Assembly in Lisbon and the Legislative Councils in the individual African Provinces are no more than glorified recording studios and the African has even less say - either directly or indirectly - in the management of public affairs than his European counterpart. The authority of government, in both the Overseas Provinces and Metropolitan Portugal, is quite independent of the will of the people, and elections are no more genuine than suffrage is universal.

2. Economic, Social and Cultural Rights.

The Right to Ownership and Protection of Property.

> Article 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.

The official doctrine in Lisbon is that, in the continental African Provinces, land is in almost unlimited supply, that it is in any case underoccupied and that the establishment of settlers from Metropolitan Portugal creates no land problem. Explicit evidence has shown, however, that the facts do little to justify this optimism, and that the establishment of colonization centres has necessitated encroachments on lands belonging, either individually of commonly, to Africans. Moreover, the whole system of land ownership as it exists under Portuguese law is based on the seizure of the land by the State and the individual Provinces as being their property by virtue of their political sovereignty, that is to say on mass spoliation. The underlying theory is that whenever one of the ships of John II or Manuel the Fortunate dropped anchor off the African coast and the crew erected a padrao, bearing the arms of Portugal, at the sea's edge, the ownership of the lands lying to the interior of that monument was automatically transferred to the Crown. This operation would appear to be based on magic rather than law. The practical result is that the Central or Provincial Government retains eminent right over the land and disposes of it by means of concessions subject to conditions laid down by itself. It is thus only through the generosity of the administrative authorities that the African communities are permitted to enjoy right of tenure over the lands which they have immemorially occupied and cultivated.

The Right to a Minimum Standard of Living.

> Article 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.
>
> Article 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.

In the light of what is known of the average standard of living in the African Provinces it is almost an absurdity to speak of such things as social security, free development of personality and guarantees against the risk of unemployment and disability. It is true that the Declaration merely voices an ideal and does not confer upon the nationals of any territory, be it self-governing or otherwise, the right to demand that the State provide certain specific services, allowances and contributions. On the other hand, however, the provisions of the Declaration cannot be taken as having no legal weight at all. They may be considered as obliging the member States to frame and implement their economic and social policies with a view to raising the living standards of the greatest possible number of their respective subjects. Seen in conjunction with those deriving from the United Nations Charter, this obligation is particularly strict with regard to the States responsible for non-self-governing territories. These States are called upon to give pride of place to the economic development of the territories in question and to combine, to that end, their "national effort" with "international co-operation". The underlying principle

is that already set forth in Article 73 of the Charter, namely that "the interests of the inhabitants of these territories are paramount". It is perhaps from this angle that the Portuguese colonial system is most open to criticism. As re-evidenced by latterday legislation, today no less than in the distant past the Central Government's economic policy is cut to the standard pattern of the old-time pacte colonial. The development of the Overseas Provinces is based, in essence, on the furtherance of metropolitan interests. On the production side, the choice of commodities is governed by balance-of-trade requirements and aimed to secure monetary stability. The more profitable sectors are controlled by the settlers and large private companies. The efforts to develop the territories are geared to a policy of mass immigration from Metropolitan Portugal. Ten million Africans are kept shut in the closed circuit of a subsistance economy. They form the "reserve army", that is to say a vast reservoir of cheap labour. Though unquestionably of prime importance, their role in the development of the country is no more than "supporting".

The Right to Free Choice of Employment and Just Remuneration.

> Article 23.- (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
>
> ...
>
> (3) Everyone who works has the right to just and favourable remuneration insuring 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 join trade unions for the protection of his interests.

Nothing is known regarding the future re-organization of labour under the new labour code for the Overseas Provinces. Under the system established by the 1928 Code and subsequent legislation to implement its provisions - which meanwhile remain in force - the African worker is a long way from enjoying complete and genuine freedom of employment. Recent measures, possibly prompted by the proceeding then in course before the International Labour Organisation, bespeak a laudable effort to eliminate the more crying abuses. But for all that the Portuguese Government may say to the contrary, the I.L.O. Commission of Enquiry itself found flagrant cases of compulsory labour during its brief visit to Portuguese Africa. As to remuneration, conditions are such that to the African workers in Mozambique the Transvaal goldmines seem paradise on Earth. Lastly, it has already been seen that trade unions are entirely unknown to the African workers; to form or join any trade union is prohibited.

The Right to Education.

> Article 26.- (1) Everyone has the right to education... 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.

Despite deserving efforts - due as much to the Catholic and Protestant missions as to the administrative authorities - the illiteracy rate in the three continental Provinces is the highest in all Africa. Moreover, once the so-called "rudimentary" stage

is over, the education dispensed in the private and State-run schools is designed primarily to "lusitanize" the young African and to implant, and water, in him the seeds of Portuguese nationalism. Is this obliteration of the African's cultural heritage by a veener of alien culture conducive to "the full development of the human personality"? Is it likely to "promote understanding, tolerance and friendship among all nations"? The fact that the majority of the Africans who have had the privilege of receiving higher education are today among the Opposition's most convinced supporters shows that the policy of conformity-through-education has in any case sadly misfired.

III.- It is not the prupose of this study to pass judgment on the Portuguese Government's policy of administration in the Overseas Provinces, but rather to gather together a coherent body of facts and illustrative data drawn from the most reliable sources. Within that context it is perhaps not irrelevant to consider briefly the future f the contiental African Provinces and the alternative paths that seem to lie open.

So far as the Lisbon Government is concerned, the answer is simple and straightforward. Portugal has been in Africa for five long centuries and intends to stay there in steadfast loyality to its historic calling, namely to provide the world with living examples of multiracial society whose members, European and African alike, live in perfect harmony and labour together with equal ardour to aggrandize the greatness and renown of the Lusitanian Empire. Such is the official doctrine. There is no doubt that certain powerful groups representing private interests - of which the large agricultural and mining companies are not the least - will endeavour to perpetuate a system that has proved so profitable in the past, and that certain myths tinged with idealism will provide convenient cover for their manoeuvres to this end. It is likewise true that many of the Portuguese statesmen and higher officials believe with great sincerity in their country's civilizing mission. The recent liberal and social reforms would indicate that they intend to take due heed of the legitimate interests

of the African populations. This attitude follows the traditional line of colonial paternalism, based on the hypothesis that the colonizer and the colonized have convergent interests. Colonial paternalism is doubtless a considerably more ancient institution of Portuguese life than the regime that emerged out of the 1926 Revolution; it nonetheless fits in admirably with the corporative system that functions under the Estado Novo. Racial conflict, no less than the class war, is transcended by the national interest. The plantation labourer and the factory worker, whose wages have been squeezed down to the absolute minimum necessary for their subsistance, are offered the moral compensation of being citizen members of the last of the great Empires. Each is taught to realize and accept that society is made up of well-defined ranks of citizens. Those who rank at the bottom are taught to respect the various duties - of which the first is obedience - devolving upon them by virtue of that fact. Those who by their merits are called upon to command are reminded that they should not remain entirely unaffected by the people's sufferings and, so far as it proves compatible with their own interests and those of the State, should attempt to alleviate them. As was said earlier, it is altogether pointless to discuss whether the present regime is a dictatorship or not. Dr. Salazar has been likened to Hitler, Mussolini and some of the most sinister tyrants of our time. This is absurd. No-one can seriously question the absolute disinterest, the scrupulous honesty and even the profound sincerity of the Head of the Portuguese Government. It is rather his immense disdain for "the winds of history" that should give cause for disquiet. Those who are bent on finding human examples with which to compare Dr. Salazar would do better to search among the ranks of those pioneers who, in their all-absessing idealism, have devoted their lives to the subproletariat of the African bushlands, used their knowledge and their skills to ease its sufferings and, further, have brought to it the light of a civilization whose innate superiority was, to them, beyond all question. In the eyes of such men - some of whom have risen to sanctity and even, on occasions, to the Nobel Price - it is for the civilized and better-

fortuned nations to succour the backward peoples; in return, however, it is for the latter to show respect and obediance towards their benefactors. The rich man opens his door to Lazarus, but sees that he eats in the kitchen.

The Portuguese are legitimately proud of having practised a policy of racial tolerance ever since the time of Albuquerque. It may well be true that five centuries ago their colonial system was 400 years in advance of the systems practised by the other Colonial Powers. Today, however, it is highly doubtful whether colonial paternalism at all fulfils the aspirations of the vast majority of the emergent peoples. Whether one likes it or not, these peoples, and the African peoples especially, are no longer content simply to receive charity from the European Powers. What they uphold before everything else is their dignity; what they claim before everything else is the right to form themselves into nations. To invite them to step into the boiling-pot of a multiracial State is to mistake the meaning and misjudge the force of that movement. The mistrust shown by the Africans is perfectly understandable. Taken literally, Portugal's integration policy is diametrically opposed to the policy of apartheid pursued in South Africa and, to a lesser degree, in the Rhodesias. How, then, is one to explain the solidarity so often proclaimed between the defenders of the last basions of European civilization in Africa? Is it not simply that both sides are fighting with their backs to the wall to preserve their already threatened positions against the tide of emancipation that is sweeping across the continent? Since they cannot openly flout world opinion, which is becoming less and less tolerant of certain forms of domination, they are obliged to create diversions. South Africa has set about creating phantom States. Portugal has given its traditional policy of racial tolerance a new connotation and built up, on an altogether flimsy and artificial basis, its theory of the multiracial State.

On many occasions in the course of the present study, attention has been drawn to the importance of certain political and social reforms that have been introduced in the Overseas Provinces over the last few years. These reforms bear the stamp of a liberal mind and appear to reflect a genuine desire for progress. Many of them have no doubt been due to the personal initiative of the young Minister for the Overseas Provinces, Dr. Adriano Moreira, whose discernment and open-mindedness are universally recognized. Do they, in fact, herald a fundamental change in Portuguese policy? Unfortunately, this does not appear to be the case. The Portuguese Government has so far refused even to discuss the key matter of the Provinces' development towards either self-government or outright independence; or rather it has shunned the issue by deciding once and for all that the independence of the Overseas Pronvinces is identical with the independence of the Portuguese nation as a whole. According to certain reports, Mr. Adriano Moreira is willing to talk in terms of "self-determination".[5] It would seem, however, that he has adopted an avant-garde view which is not at all shared by the Head of the Government. Mention has already been made of Dr. Salazar's contemtuous reference to self-determination - "the brilliant principle of political chaos in human societies" - in his speech of June 30, 1961, before the National Assembly. Dr. Salazar can count on the National Assembly's firm support. During the sitting of February 9, 1962, Dr. Victor Barros, one of the deputies representing Angola, caused an uproar of indignation by maintaining that Portugal should reform its policy in the Overseas Provinces and completely decentralize administration in Angola. His speech, which was repeatedly interrupted, brought strong reactions.[6] Another deputy suggested, by way of retort, that as a symbol of the indissoluble unity of the Portuguese nation the seat of the National Assembly should be moved to Luanda and that of the Supreme Court to Lourenço Marqués. It is equally noteworthy that during the campaign prior to the elections of November 12, 1961, the Opposition groups made only the shyest of references to the need for reform in the Overseas Provinces. Their Programme for the Democratization of the

Republic, published in May 1961, made no mention of the subject at all. The Democratic Opposition Candidates' Manifesto to the Nation, published in October, proclaimed their attachment to the integrity, and defence, of the national territory and, with this reservation, spoke of the need for a new policy to further the development of the overseas peoples towards a degree of self-government that would meet their wishes.

The African parties in exile appear at the moment to be no less unbending than the Portuguese Government. After having heard statements from the parties' representatives, Mr. Achkar Marof, Vice-Chairman of the seven-member Committee established by the United Nations General Assembly to enquire into the situation in the Portuguese territories, stated at Dakar on June 13, 1962:[7]

> The petitioners we have heard - whether from Angola, Mozambique, Guinea or the Cape Verde Islands - are all agreed on one thing: their demand for immediate independence...Despite the reforms introduced by the Portuguese authorities, the peoples have set their minds on securing the right to govern themselves.

It has already been seen that the two major parties, the U.P.A. and the M.P.L.A., both demand "immediate and total independence". It is unknown whether the leaders of these two parties sincerely believe Angola (for in the present instance it is a question solely of Angola) to be, as of now, sufficiently prepared and mature to pass from its present status to that of an independent State without going through a period of transition. The example of the Congo should lead to caution. Those who are opposed to Portuguese administration have arraigned - and justly so - its failings in the field of education. The vast majority of the Angolan population is illiterate; the same applies in Guinea and Mozambique. An infinitely small minority of Africans, most of whom are now in exile, have received secondary and higher education. Would this élite, no matter how able, be sufficiently strong in

number to assume overnight the responsibility for running the government, the administration and the public services not only in Angola but also in Guinea and Mozambique? Seen literally, the demand for immediate and total independence is pure demogogy. As already said, the example of the Congo points to the danger that lies in overhasty and therefore defective decolonization. And the first who would suffer as a result are the African paople themselves.

The question that must therefore be asked is whether, between the stagnation into which the Portuguese administration will relapse if left to its own devices and the precipitate overnight changes demanded by the exile parties, there exists a middle path navigable to both sides.

It would seem that to reconcile the legitimate interests of the parties concerned is not beyond the bound of possibility provided that the solution is based on three major principles.

1. The first principle, which should be proclaimed without any further delay, is that of the right of the peoples concerned to self-determination in accordance with resolution 1514 (XV) of the United Nations General Assembly. This is to say that the African peoples of Guinea, Angola and Mozambique will be called upon to express their wishes regarding the status to which they desire ultimately to accede and to exercise a free choice between a number of optional fomulae: integration, association, a separate system of self-government or independence. It will doubtless be difficult, but not impossible, to organize this consultation in such a way that those concerned may make a truly free and responsible choice. It should be stressed that if, after due consideration, they decide in favour of integration or any other solution similar to their present situation, it would be proposterous to deny them the right to that option.

2. Should the majority decide in favour of independence, their development towards ultimate attainment to that status should be carried out by stages; deadlines should be adhered to

and the necessary stages fulfilled with due care and preparation. This is the second principle. As was seen in the preceding chapter, the majority of the United Nations General Assembly take the application of resolution 1514 (XV) to mean precisely this. In other words, the right of the colonized peoples to independence must be viewed realistically. In particular, due account must be taken of the inherent inertia of colonial systems, which are not only political and administrative but also economic and commercial in nature. Overhasty decolonization destroys the first at the risk of plunging the country into anarchy; at the same time it leaves the less obtrusive and therefore more resistant economic and commercial systems much as they were; the final result is that the broad mass of the people have gained nothing. The Congo is not the only case in point; there are others which date much further back in history.

3. In order to ensure that the rules governing the procedure are duly respected, the passage and development of a territory from its present to its ultimate status - and above all the initial consultation - must be supervised by an international body. This is the third principle. As regards Portugal's Overseas Provinces, the idea is far from new. As long ago as 1931 the author of an economic survey of the Portuguese colonies, to which numerous references have already been made, advanced the view that since, in his opinion, the system then in force could not last indefinitely, the territories in question should be placed under an international statute within the framework of Article 22 of the Covenant of the League of Nations.[8] Today there is no question of reviving the practically outworn system of trusteeship with regard to the Portuguese Provinces of continental Africa. A more elastic solution, less likely to bruise the Portuguese Government's understandable sensitivity, can and must be found. If the Portuguese Government were to change its policy towards the United Nations and undertook to collaborate firmly and wholeheartedly with the Organization, it would be able to organize, in co-operation with a commission appointed by the General Assembly, a rational and closely supervised process of development in the

status of the three Provinces. Since there would no longer be any misunderstanding as to the intentions of its policy, the changes and transitions aimed at would be brought about smoothly and easily. Everyone would stand to gain from the United Nations' taking a hand prior and not, as was the case in the Congo, subsequent to independence.

The Portuguese frequently point to Brazil as the most successful achievement of their colonial policy. The example is perfectly valid provided that one accepts everything it implies. Brazil separated from Metropolitan Portugal almost 150 years ago. It has remained Portuguese in its language, its culture and its traditions, including the tradition of racial tolerance. Today Brazil is a great State of considerable political and economic power. It has at the same time remained closely bound to Portugal by inseverable ties of friendship and solidarity. During the first half of the present century the Portuguese often spoke of transforming Angola, and possibly Mozambique, into a new Brazil. Why not pursue this parallel to its logical conclusion? If Portugal were itself to initiate a process of development which is in any case bound to come sooner or later, and were itself to lead the peoples of Guinea, Angola and Mozambique along the road to independence, then such friction as may have arisen in the last few years would doubtless soon be forgotten and the bonds of mutual culture and fellow feeling woven by over four centuries of association would prove stronger than any political constraint. The accession of the Provinces to the status of independent States within a Portuguese Commonwealth would appear to be a reasonable solution and one well adapted to reconciling the legitimate interests of both Metropolitan Portugal and the African peoples of the Overseas Territories.

The rader will doubtless be familiar with Max Planck's famous remark: "Truth never triumphs, but its enemies always die in the end." Be that as it may, no ill is wished of the Portuguese statesmen who continue to cling to the outworn concept of colonial sovereignty. On the contrary; it is to be hoped that they will cease to deny the facts that lie before them and come to recognize that a future similar to that already embraced by the French and British Empires will in no way be unworthy of the illustrious past of which their country is so justly proud.

N O T E S

1 A.V. Dicey, The Law of the Constitution (9th edition) (London: Macmillan, 1956), pp.202-203.

2 For this reason "universal consciousness" has been defined in terms of "national groups having mutual relations".

3 Le Groupe zoologique humain (Paris: A. Michel, 1956), p.134 et seq.; L'Apparition de l'homme (Paris: le Sueil, 1956), p.217 et seq.

4 Idées directrices de l'O.N.U., in Recueil 1953, II, p.27.

5 Robert H. Estabrook, in the Washington Post, February 1962 (2nd article).

6 Africa Diary, March 3/9, 1962, p.421.

7 Le Monde, June 14, 1962.

8 Bohm, pp.218-219.