

*FOR THE RULE
OF LAW*

***Bulletin
of the
International
Commission
of Jurists***

CONTENTS

MEETING OF THE INTERNATIONAL COMMISSION OF JURISTS . . .	1
REPORT OF THE SECRETARY-GENERAL	4

ASPECTS OF THE RULE OF LAW

Congo-Kinshasa	29	Latin America	49
Eastern Europe	44	South Africa	60

I.C.J. NEWS	74
-----------------------	----

No. 28

JUST PUBLISHED

**THE RULE OF LAW
AND
HUMAN RIGHTS**

Principles and Definitions elaborated at the Congresses and Conferences held under the auspices of the International Commission of Jurists, rearranged according to subject-matter, with cross-references to the principal human rights conventions and well indexed.

Price:

	<i>US\$</i>	<i>Sterling</i>
Hard back	1.50	£0.10.6
Paper back	1.25	£0. 9.0

For *other publications* please see order form.

PLEASE USE ENCLOSED ORDER FORM

MEETING OF THE INTERNATIONAL COMMISSION OF JURISTS

The International Commission of Jurists met in Geneva from September 30 to October 2, 1966, for the first time since its meeting in Rio de Janeiro, Brazil, in December 1962. Almost all the members of the Commission attended the meeting. A notable absentee was U Chan Htoon, former Chief Justice of Burma, who has been under restriction in Burma for some years and was not allowed out of the country in spite of repeated appeals to his Government by the Secretary-General of the Commission.

The opening session of the Commission meeting was, by courtesy of the Geneva authorities, held in the Alabama Room of the *Hôtel de Ville*. It was presided over by the President of the Commission, Mr. Vivian Bose, and was addressed by Mr. André Ruffieux, President of the *Conseil d'Etat* of the Republic and Canton of Geneva, Ambassador René Keller, Head of the Swiss Permanent Mission to the international organisations, Prince Sadrudin Aga Khan, High Commissioner for Refugees, Mr. Nicolas Valticos, representing the Director-General of the International Labour Office, Mr. Jean Pictet, Director of the International Committee of the Red Cross, and M. L. H. Horace Perera, Secretary-General of the World Federation of United Nations Associations. The Secretary-General presented his report, the text of which is reproduced below :

Subsequent sessions were held at the offices of the Commission. They were principally devoted to a detailed discussion of the Commission's role, policy and activities. A number of amendments were made to the Statute and the following officers were elected :

President : The Hon. Mr. Justice T. S. Fernando (Ceylon).

Vice-Presidents :

A. J. M. van Dal (Netherlands) ;

The Hon. Chief Justice Osvaldo Illanes Benitez (Chile) ;

Professor Kenzo Takayanagi (Japan).

To mark its recognition of his devoted services, the Commission elected Mr. Vivian Bose (India), its President for the last six years, as Honorary President, in which office he joins Judge Joseph T. Thorson (Canada).

At the conclusion of its meeting, the Commission issued the following statement :

1. The Commission deplores the increasing brutality which marks this era. Neither fatalism nor the violence of the age should ever be permitted to dull the sense of horror and indignation which executions and imprisonment without trial, massacres, torture and like acts of brutality must arouse in mankind. Nor can man be silent before the racial and religious discrimination which result in so much injustice and human suffering. These acts erode human standards; the inherent dignity of all mankind suffers.

2. The Commission calls on lawyers everywhere to take part in promoting the principles of justice constituting the Rule of Law, and to give aid and encouragement to those persons to whom the law's protection is denied.

3. More widespread literacy and particularly more effective means of mass communication give world public opinion an expanded dimension and an increasing influence. This is a welcome development. The Commission attaches particular importance to the vigorous protection of freedom of expression and communication; it therefore opposes press censorship, arbitrary seizure of publications and radio and television jamming.

4. The Commission, while emphasising that the maintenance of the Rule of Law is basically a national responsibility, draws attention to the growing number of international conventions which can provide significant protection for certain fundamental human rights. It urges the speedy ratification of such conventions by all governments. It pledges its support to the sustained endeavours of the United Nations in the human rights field.

5. The Commission welcomes the proclamation of the year 1968 as "International Year for Human Rights". It will commit its own efforts to assist in the mobilisation of world opinion towards the more adequate recognition and protection of human rights, and to give greater reality to the principles set forth in the Universal Declaration of Human Rights.

6. The Commission, its National Sections and its Secretariat, pledged to carry on the fight against injustice and the denial of individual liberty in every form, appeal to lawyers everywhere to work for the establishment and protection of human rights under the Rule of Law.

REPORT OF SECRETARY-GENERAL
to the
INTERNATIONAL COMMISSION OF JURISTS MEETING
Geneva, September 30 - October 2, 1966

PART I INTRODUCTION

The chief executive of your Commission has a fascinating and challenging task but one in which hope and optimism have to provide continually a life-raft against utter despair. His life is made bearable by the devoted services of the Members of the Commission, the Executive Committee, the National Sections and last, but by no means least, all his colleagues in the Secretariat.

While the development and application of the Rule of Law is the rational and reasonable alternative to intolerance, arbitrary action, injustice and brutality, the universal acceptance of this elementary concept is hard to secure. Time after time, when it appears that improved and more stable conditions have been achieved in a given area, an unexpected upheaval leads to a sudden breakdown of the most elementary basic legal rules.

While the Commission is not concerned with political, economic or social issues as such, in many areas the proper application of the Rule of Law does depend, at least in part, on such factors. Illustrations of such conditions will provide a clearer picture of some of the problems with which the Commission has to deal.

1. Areas of Racial Discrimination

In areas where racial discrimination is the basis of society and is supported by otherwise formally valid laws, the legislation ceases to be based on justice. Discriminatory laws both in principle and in practice lead inevitably to the erosion, one after

the other, of the elements of the Rule of Law. An unjust and discriminatory social order inevitably arouses opposition; stern measures are then taken to deal with all opposition and to maintain by force the social order which has engendered the opposition. The opposition is then driven underground and to violence. Thus a policy of racial, or religious, discrimination ultimately results in the destruction of all legal safeguards, including those which are not directly related to discriminatory laws.

2. *Areas of Sub-standard Economic Conditions*

Areas of the world where economic levels are sub-standard or chaotic present problems with many difficult facets. Law and justice come to be regarded as abstract academic theories — if not, as the prerogative of the wealthy — divorced from the reality of the lives of the people. The panyoply of the law to hungry people may enforce obedience but it does not attract respect or support. Accordingly, the proper operation of the Rule of Law is much harder to achieve unless economic conditions assure a reasonable standard of living and stability for the population. In order to improve economic conditions in an impoverished country, economic planning measures often have to be taken which infringe the norms of the Rule of Law applicable to wealthier countries. The problem is one of constantly weighing against each other the requirements of the common good against individual and property rights; the relevant factors to be weighed vary from country to country, dependant upon this stage of development. What may be indefensible in a wealthy sophisticated society may become permissible in a society which is trying to fight against famine and hunger.

3. *Communist Dominated Areas*

In the communist areas of the world our concept of the Rule of Law comes into conflict, in varying degrees, with the concept of communist legality. We cannot reconcile a situation in which laws are made and administered by agents of a political party (often the only permitted) with our concepts which are based on the separation of powers between the executive, legislative and judicial authorities. The independence of the judiciary and an independent legal profession are, in our view, vital to the protection of the individual and to the proper operation of the Rule of Law. The degree of disagreement with our views

on these and other issues varies from state to state in the communist parts of the world. There have been recently many welcome improvements in legal theory in Eastern Europe in contradistinction to the situation which exists in mainland China. A closer dialogue on many legal issues is now due with East European jurists.

4. *Areas of "Paternalistic" Dictatorships*

Some "paternalistic" dictatorships or semi-dictatorships still persist. These areas in many respects, even if for different reasons, present many of the same problems as those of communist States. Freedom of expression and of association are either non-existent or so curtailed as to be valueless.

5. *Areas still under Colonial Rule*

The colonial era, as such, is at an end, but there still remain some areas under colonial rule. These may be divided roughly under four headings :

- (i) Areas in transition from colonial rule to complete independence ;
- (ii) Areas where the populations have for economic or other reasons opted not to seek complete independence ;
- (iii) Areas that have been seized or occupied for strategic or political reason by a foreign power ;
- (iv) Areas still held by an obdurate old type colonial power.

Each of these presents serious Rule of Law problems, each of a different nature. The attitude of the Commission in regard to areas under colonial rule is clear cut : "The will of the people is the basis of the authority of public power. This will must be expressed by free elections..." (Athens Congress), and again "... the Rule of Law cannot be fully realised unless legislative bodies have been established in accordance with the will of the people who have adopted their Constitution freely." (Lagos Conference).

6. *Former Colonies*

In areas of the world which have emerged from colonial rule, the development of the Rule of Law is often particularly difficult. In many such areas the boundaries of States were arbitrarily

drawn by the former colonial powers and bear no relation to the ethnic and economic factors that go to make a state with a sense of national unity. It should be borne in mind that what Europeans refer to, in a pejorative sense, as "tribalism" is really only another name for the nationalism which disrupted Europe for so many centuries. There is also an inevitable tendency on the part of the rulers of new States to turn to the methods which the colonial powers used — imprisonment without trial, military or special tribunals, summary "executions", suppression of freedom of expression and so on. The trend towards what are euphemistically termed "one-Party States" in some former colonies also stems, in part, from this factor. Because of insufficient experience and tradition in self-government and of lack of confidence in the administration of justice, the people often still tend to regard themselves as the "subjects" of an omnipotent ruler against whom they have no redress. This situation is often worsened by the absence of an adequate number of qualified indigenous lawyers.

7. Areas of Military Dictatorships

The only too frequent establishment of military dictatorships, often followed by counter military coups, presents considerable problems in some areas of the world. A military coup, just as war, is in itself evidence of the total breakdown of the Rule of Law. In such situations the primary task is to reduce arbitrary action and brutality to a minimum. This may or may not always be possible: each case has to be dealt with separately.

Various studies have been undertaken to seek to assess the underlying reasons for these military coups. However, they stem from completely different reasons. Sometimes it is to get rid of a corrupt or dictatorial régime; sometimes it is due to ethnic causes; sometimes it is due to a desire for prestige and power; sometimes it is to anticipate a possible loss of prestige or power; sometimes it is to unseat a weak or inefficient administration; sometimes it is due to external forces. Only three discernible common denominators can be found:

- (a) Absence of an informed healthy democratic public opinion;
- (b) The existence of a group of army officers with sufficient authority over a section of the army;

- (c) Army officers, in some underdeveloped areas, constitute the only cohesive group with adequate educational standards and authority.

8. *Enlightened Democracies*

Even in the most enlightened democracy, abuses of powers by the executive, by the administration or even by parliament may and do occur. Such abuses may be incidental: they may not have been contemplated when a particular law was enacted. Or they may have been anticipated but disregarded because they only affected a small number of people. They may have been motivated by a good, but mistaken, view of what was for the "common good". On the other hand, even in a well regulated democracy, abuses, for political or patronage purposes, do occur and have to be guarded against.

The modern trend towards socialisation, coupled with ever increasing scientific development, increases the power of the State machine to intervene more and more in the lives of the individual. Inversely, the duty of the State to provide for the needs of the weakest sections of the population provides more opportunities for maladministration, whether due to political motives or to administrative bungling.

Accordingly, we have to recognise that, no matter how democratic a State may be, it is nevertheless necessary to provide effective machinery for the protection of the rights of the individual.

From the foregoing short grouping and review of the problems hindering the proper application of the Rule of Law, it will be appreciated that the task of the Commission is both varied and extensive. In every case the creation of a public understanding as to the need for the proper application of the Rule of Law is the first essential; as a step in this direction, law must be equated to justice and not to mere incomprehensible technical rules that only lawyers can understand. The process of educating public opinion must naturally begin in the foyer and in the domestic national forum. The standards achieved in the most advanced countries must then be used to promote a sense of emulation in those areas which are only in process of development.

One of the essential social tasks of lawyers the world over

is to ensure the creation of those conditions which will ensure the proper application of the Rule of Law. If I were asked what these conditions are, I would list them as follows :

- (a) An informed public opinion.
- (b) A free press, not government controlled, which will not hesitate to expose injustice.
- (c) A well-informed and watchful parliament freely elected.
- (d) A Constitution which spells out unequivocally the rights and duties of the citizen and delimits clearly the respective powers of the executive, the legislature and the judiciary.
- (e) An independent competent judiciary, not subject to any direct or indirect pressure, charged with the function of upholding and enforcing the Constitution.
- (f) An "Ombudsman" or Parliamentary Commissioner directly responsible to Parliament with full powers of investigation.

A comparison of these six conditions with the problems described earlier gives some indication of the tremendous tasks that face the Commission and the other organisations which work in this field.

It is always too easy to over-simplify problems ; but the extent to which the conditions necessary for the proper working of the Rule of Law are present in any given area may be tested by an examination of each of these factors.

The surest sign of deterioration of the situation in any country is interference with the freedom of the press.

Those of us who, like our distinguished guests here today, are the executives of those great international organisations who work incessantly to uphold the dignity and liberty of the individual human being are overwhelmed by the situations that confront us daily in our work. These are situations which range from neo-barbarism to outright denials of justice. We help each other as much as we can to remedy these situations but we have neither the resources nor the authority necessary to remedy even a fraction of the situations which should be dealt with. We need help. That is why we urge the establishment of a United Nations High Commissioner for Human Rights. That is why we urge governments to ratify Conventions that have

been signed and agreed upon. That is why we urge the adoption of Covenants to implement the Universal Declaration of Human Rights. That is why we urge the extension of the scope of Geneva Conventions. That is why we urge the adoption of Regional Conventions similar to the European Convention for the Protection of Human Rights.

I should like to avail of this occasion to pay a special tribute to our distinguished guests, to the Secretary-General of the United Nations and to all those who, in these great international organisations, work to improve conditions in the world. They work devotedly for an ideal which sometimes seems remote but which is vital to humanity. Their co-operation, help and understanding have been of the greatest help and encouragement to us in our own work.

One of the grave aspects of the brutality which disgraces this era is the ease with which it comes to be accepted. The feelings of horror and indignation which shock the human conscience are too easily converted into a sense of fatalistic resignation — or relegated to a “lost property” compartment of the human conscience. This fatalism, or escapism, or feeling of impotence, tends to dull the human conscience. This has a deep influence on the ethical outlook of mankind. Brutality is nearly contagious; it leads to a degradation of human standards. This is a problem which church leaders, sociologists and lawyers should study.

In the midst of a grave world situation and of a multitude of dangerous problems there is one hopeful development. Higher literacy standards, mass media of communication and fast exchanges of information have given to public opinion in the world a new dimension and a much greater force than it ever had. Public opinion in the world can now be reached and inversely can make its impact felt decisively. True, world public opinion does not always prevail but even a despotic dictator can no longer ignore world public opinion as an important factor. Modern means of news transmission can now pierce even the most rigid iron curtain. This is a trend which, with the improvement of educational standards and of the means of mass media of communications, will continue to operate in our favour in every area of the world.

In the next part of this Report, I have sought to give an outline of our activities.

PART II ACTIVITIES

1. *The Secretariat*

The tasks of the Commission, which are increasing, cover a complex and wide field. It is on the Secretariat that the responsibility falls for implementing these tasks. Apart from the purely administrative and secretarial services, the Legal Staff is organised on a geographical-linguistic basis, each Legal Officer dealing with a particular area of the world. Each Legal Officer has not only to be a fully qualified lawyer but has to keep in close contact with legal developments in the area of the world allotted to him. We publish in four languages, English, French, German and Spanish, but in addition they have to deal with correspondence in many other languages. Our staff, which is truly international, comprises 17 different nationalities. We have a total of 47,076 lawyers on our mailing lists and 37 National Sections. The extent of the secretarial work involved may be gauged by the fact that, apart from our publications, we send out 5,000 letters and 320,000 publications per year.

In addition to the regular publishing and secretarial work of the Commission, the Secretariat has to deal with the organisation of I.C.J. Conferences and to attend Conferences and meetings organised by our National Sections, the United Nations and other international organisations. The preparation of Working Papers and memoranda for such Conferences involves a great deal of research into particular topics and into regional problems.

The regular routine work of the Secretariat is from time to time disrupted by what I might term "emergency operations" which have to be undertaken to deal with particularly urgent problems. Sometimes it is to undertake a special investigation at the request of a Government, sometimes it is to send an observer mission to minimise arbitrary or intolerant action by a Government, sometimes to try to persuade governments to exercise clemency.

It is the Secretariat of the Commission which has to shoulder these vast tasks. I am happy to be able to report that the

Commission has a responsible and capable staff devoted to the ideals of the Commission. To them goes the credit for all the work done and the growing influence of the Commission in every region of the world.

2. *The Library*

The Library contains more than 7,000 volumes, and in addition we subscribe to at least one hundred newspapers, periodicals and legal journals, which are classified and filed according to a system which permits us to keep our current documentation and information service up to date.

We have made a particular effort to streamline the library and documentation department with a view to eliminating material of little value and to concentrating upon the fields which concern us most. Problems of space and methods of classification make this essential; besides, abundant material is available in Geneva at the United Nations, the University or the various institutes. Our efforts have begun to bear fruit; our library is now generally considered to be unique of its kind, and is used increasingly by students and research workers.

In the same field, but on a more general scale, I should add that the role of the Secretariat as an *Information Centre* has grown considerably; we are receiving more and more visits or letters from foreign lawyers either seeking information about our activities; or anxious to inform us on the legal developments in their country; or seeking to establish contacts and exchanges with legal circles in other countries; or wishing to obtain information and documentation on a specific legal problem; or asking our advice and technical assistance on specific problems, which may be anything from the establishment of a legal library to the drafting of new laws or the establishment of new institutions.

3. *Publications*

The preparation and production of our publications continues to be one of our principal activities.

We have maintained the division between the different categories of publications: the *Bulletin*, which analyses and comments upon the legal aspects of principal events of topical world-wide interest, is the principal means by which we express our views on specific issues and situations involving the principles

of the Rule of Law; the *Journal*, which is a more scholarly, academic periodical, is aimed at a specialised legal public and contains studies in depth of problems and developments in the legal field; special studies and reports are issued on important topics of immediate concern, on the results of our congresses and conferences, and on the findings of inquiries or investigations conducted by us. Finally, we publish press releases when we feel that circumstances require it.

4. *The Bulletin*

The *Bulletin* appears regularly four times a year. You will have noticed that we have replaced the old Newsletter, which came out irregularly, by a News Section in the *Bulletin*. Our object in so doing was to establish a regular exchange of information that would permit everyone to follow the activities of the Commission and its National Sections.

As far as the contents of the *Bulletin* are concerned, we have sought to conserve, and even perhaps to accentuate, its topical character by doing our best to follow principal events of world-wide interest as closely as possible. This is not easy, first because of the long period of preparation necessary for each *Bulletin*, and secondly because the studies necessitate painstaking research and preparation.

Since the beginning of 1963 we have published articles — sometimes several articles on one country — specifically dealing with more than 70 countries, i.e. in Africa, Algeria and Morocco, Cameroon, Congo-Kinshasa, Burundi, Gambia, Ghana, Kenya, Mali, Malawi, Nigeria, Somalia, South Africa, Southern Rhodesia, former Tanganyika, Tanzania and Uganda; in Europe on Austria, Belgium, Bulgaria, Cyprus, Czechoslovakia, Denmark, England, France, German Democratic Republic, German Federal Republic, Hungary, Ireland, Italy, Poland, Portugal (and its overseas territories), Roumania, Spain, Sweden, Switzerland, Soviet Union and Yugoslavia; in Latin-America, Argentina, Brazil, Chile, Ecuador, Honduras, Mexico, Nicaragua, Paraguay and Peru; in the American hemisphere, Cuba, the Dominican Republic, Haïti, Canada and the United States; in the Pacific area, Australia, New Zealand, New Guinea and Papua; in the Near and Middle East, Afghanistan, Iran, Israel, Turkey and the United Arab Republic; in the Far East, Burma, Ceylon,

the People's Republic of China, South Korea, India, Japan, Indonesia, Mongolia, Nepal, Pakistan and Tibet.

The overall object of these articles has been to clarify and affirm the underlying principles which inspire our activities: the recognition of and respect for human rights and fundamental freedoms in the classical sense of these terms; the promotion of the economic, social and cultural rights of the individual equally with his civil and political rights so that his dignity may find its fullest expression in a free society; constitutional protection for the rights of the individual, and protection and guarantees for the free exercise of these rights by means of appropriate institutions and procedures; protection against abuses and arbitrary actions on the part of the authorities, in particular through the safeguards provided by representative government; the independence of the judiciary and of the bar; equal access to the law for rich and poor alike, the right to be heard and to a fair trial, etc. Finally, we have encouraged international protection for human rights in the spirit of the Universal Declaration of the United Nations.

At the same time, we avoid criticism for its own sake, and we frequently draw attention to measures adopted in different countries which appear to be positive developments and deserve to be encouraged. We have thus commented upon new and more democratic constitutions, fairer electoral laws, more liberal press laws, agrarian legislation that is more favourable to the economic and social rights of the individual, amnesty decrees, etc. Unfortunately, in the present-day world there are many causes for complaint; we can only cover a fraction of these. Governments whom we have to criticise are usually annoyed; they often complain to us or reply publicly — they seldom ignore our criticism. Our experience is that despite their initial adverse reactions, they make contact with us and in many cases do try to remedy the causes of our criticism. I have no doubt whatsoever that the *Bulletin* and our press releases, which both receive world-wide coverage, have a salutary effect on Governments and carry considerable weight in the world.

5. *The Journal*

The *Journal* appears twice a year, but we have not yet overcome all the difficulties involved in ensuring its publication on the dates planned.

We have striven to maintain the quality of the *Journal* at as high a level as possible, and to increase its documentary value by publishing from time to time international and comparative texts that are difficult to find in other publications. At the same time, with the object of making our *Journal* more than an academic periodical, and of providing judges and practising lawyers with material of real professional value, we have introduced two new regular features. One is a series of studies on the Supreme Courts of the principal countries of the world, their structure, jurisdiction and influence. The other is a digest of judicial decisions which provides a means of reference to important decisions in different parts of the world by reputable courts dealing with Rule of Law topics. This innovation, unique of its kind, has been very favourably received and will, I think, prove of considerable value in helping lawyers and judges to establish higher and more uniform standards.

As far as *Press Releases* are concerned, we have always been extremely careful to refrain from tub-thumping publicity which in the long run only produces the appearance of prestige. We do not, therefore, flood the press with an avalanche of press statements. We use press releases to alert public opinion and make our views known only when the urgency of the circumstances or the seriousness of a situation demands it.

Journalists know that they are always welcome, that we are very willing to assist them in any way we can; they know that we never waste their time over unimportant issues; they know, too, that we are staunch defenders of their freedom and that, on numerous occasions and on every continent, we have intervened in defence of press freedom in countries where it appeared to be threatened. These factors have created a climate of mutual collaboration between the press and ourselves. This is true both for individual journalists and for their professional organisations. In connection with the liberty of the press, I would like to pay a special tribute to the International Press Institute with which we have regular and most useful contacts.

6. *Special Studies and Reports*

The publication of the report on the Congress of Rio de Janeiro was delayed, but its conclusions on "Executive Action and the Rule of Law" seemed to us to be of very general importance and application. In 1965, we published the report

on the South-East Asian and Pacific Conference of Jurists, held in Bangkok in February of that year, on "The Dynamic Aspects of the Rule of Law in the Modern Age." I shall return to it in a moment.

After "South Africa and the Rule of Law", which appeared at the end of 1960, we published two further studies in the same series in 1962, one on "Spain and the Rule of Law" and the other on "Cuba and the Rule of Law". The study on Spain was followed, some two years later, by a reply from the Spanish Government in the form of a White Paper in book form.

Also in 1965 we published a study on "Legal Education in South-East Asia", arising out of a Conference which had been held in Singapore. Interest in the subject was all the greater in that our Bangkok Conference, that same year, devoted part of its attention to this subject.

We have further published reports on two inquiries, one in 1964 on "Events in Panama" and the other in 1965 on "Racial Problems in the Public Service in British Guiana"; a third on "The Situation in Angola" is in course of preparation. I shall come back to these subjects later on.

In 1965 we published a new, up-to-date, edition of the brochure on "The Commission, its Objectives, Organization and Activities."

7. National Sections' Publications

In addition to the publications of the Secretariat the following National Sections have produced important publications: the Australian National Section, the British Section "Justice", the French National Section "Libre Justice", the Indian National Section "The Indian Commission of Jurists" and the Italian National Section "Associazione Italiana Giuristi". "Libre Justice" in France now publish a regular Bulletin containing valuable reports of the Seminars organised by the Section. "Justice" in Britain, in addition to most valuable Special Reports, has an arrangement whereby "The New Law Journal" publishes regularly two pages devoted to the activities of the Section; it may well be said that "Justice" by its Special Reports has spearheaded legal reform in Britain. The Australian National Section has an arrangement whereby the Law Council of Australia includes in some of its publications a report of its activities.

Mention should also be made of a most valuable primer entitled "Think about Law", published by the Australian Government as a result of the Papua and New Guinea Seminar, explaining simply and graphically the purpose of law.

8. *New Publications, Studies and Surveys*

(a) *"The Rule of Law and Human Rights"*

It is our privilege to present to the Commission today a book which we have just published to coincide with this meeting of the Commission — "The Rule of Law and Human Rights".

This work provides a convenient, comprehensive and classified compendium of the principles and definitions of the Rule of Law as defined by the International Commission of Jurists at its Congresses and Conferences. It also contains indexed cross-references to the principal international instruments relating to our field of work. The principles and definitions so carefully and painstakingly elaborated by the Commission at its Congresses and Conferences were only to be found scattered through the Reports and Conclusions of our meetings; they were hard to find as most of the Reports were not indexed and dealt with various topics. We also found that a number of important Conventions, including I.L.O. Conventions, were comparatively unknown by lawyers. This book will enable jurists to trace conveniently all the relevant material appertaining to the Rule of Law and Human Rights. It is an important book of reference that will find its place in all lawyers' bookshelves. I hope that this book is only the predecessor of a much larger work on the Rule of Law.

(b) *Study on the Status of the Universal Declaration of Human Rights in International Law*

We have completed a Study in depth on this question and propose to publish it shortly. We are also considering the feasibility of organising a Seminar of Experts to examine this question; this Study would form the Working Paper for this Seminar.

(c) *Human Rights Year 1968*

We are planning the publication of a special issue of the *Journal* for Human Rights Year, consisting of contributions from experts in this field.

(d) *Survey on Preventive Detention*

We have just begun a world Survey as to the extent and nature of preventive detention in the present day world. We have sent a questionnaire to 141 governments and so far have received replies from the following :

Austria, Belgium, Bolivia, Canada, Chad, Chile, Costa Rica, Dahomey, Denmark, Gambia, Ghana, Gibraltar, Haute Volta, Honduras, Hungary, India, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Madagascar, Malawi, Malaysia, Malta, Monaco, New Zealand, Pakistan, Philippines, Sikkim, Singapore, Switzerland, Tanzania, Thailand, Uganda, United Kingdom, United States of America.

Having regard to the short space of time since the Survey was initiated, this response is very satisfactory. It will be some time before this Survey can be finalised as in some cases further correspondence will be necessary for clarification purposes before the final classification of the replies can be undertaken.

Further world Surveys will be undertaken on such topics as "Pre-Trial Detention", "Bail Procedures", "Free Legal Aid", "In camera Proceedings" and "Freedom of the Press".

It is proposed in each case to enlist the assistance of governments (where they are prepared to co-operate), National Sections, universities and specialised organisations. We believe that the mere carrying out of such surveys has in itself a beneficial effect. The result of such surveys will be published and we hope will assist lawyers to improve conditions in their own countries where this may be necessary. The result of the surveys will provide articles of an exclusive nature for our publications.

(e) *Subscription Rates*

On account of increased production costs, it has been found necessary to increase some of the prices and subscription rates for our publications as from January 1st, 1967. As from that date, the annual subscription rates will be as follows :

Journal (2 issues) \$3.00 or £1.1.6 or F.Frs 15.00 or S.Frs 13.50

Bulletin (4 issues) \$3.00 or £1.1.6 or F.Frs 15.00 or S.Frs 13.50

To encourage subscribers, who only subscribe to one of our publications, to subscribe to all our publications, we will provide a most attractive "Combined Subscription" for the *Journal*,

the *Bulletin* and such other special publications of general interest as may be published in the current subscription year, if any, at the annual rate of \$5.00 or £1.15.9 or F.Frs 25 or S.Frs 22.50.

9. *Political Trials*

One of our constant preoccupations over the last few years has been the question of political trials. It is not possible to mention here all the steps we have taken to ensure either some modicum of fairness in political trials or to mitigate the punishments imposed; sometimes we succeed and sometimes we fail. In cases where we consider that a useful purpose can be served by so doing, we have sent observers to trials. In many cases we have not done so either because we considered that no useful purpose would be served or because our resources of personnel or funds would not permit it. In a number of cases we have had to limit ourselves to an appraisal of trials based on documents and press reports.

In this way, we were represented in Israel at the Eichmann trial, in Turkey at the Yassiada trial at which the former Turkish political leaders were tried, in Ceylon at the trial arising out of the coup d'état, in Portugal at the trial of the lawyer Vicente, in Morocco at the trial arising out of the "July conspiracy", in South Africa at the Rivonia trial; and we have examined the trial of French diplomats in Cairo, of "tunnel builders" in Berlin, of Marco Rodriguez in Cuba, the series of trials for "economic crimes" and more recently the trial of the writers Sinyavsky and Daniel in the Soviet Union, and the trial of the "Whitsun conspirators" in the Congo-Kinshasa.

Numerous interventions have been made, through diplomatic channels or directly with governments, in cases where humanitarian circumstances made such intervention a moral duty or, more simply, in order to remind the competent authorities of the need to respect the Rule of Law.

As a general rule we do not regard it as part of our function to deal with individual cases unless there is reason to believe that they reflect a systematic denial of justice. In this connection, I should mention the invaluable work which "Amnesty International" is performing in regard to individual cases and in regard to the fate of political detainees.

10. *Special Inquiries and Investigations*

The fact that on two occasions in recent times the Governments involved in Special Inquiries undertaken by the Commission have actively participated in the Inquiries was a significant development. This applies to the Governments of Panama, the United States, the United Kingdom and Guyana.

(a) *Panama Investigation*

The object of the Investigation was to clarify exactly what had happened during certain disturbances in Panama in 1964 and to investigate the complaints made in connection with them. There were two factors which made this inquiry an undertaking of primary importance: in the first place it was a striking recognition of the competence and impartiality of the Commission; even more important was the fact that both the Government of the Republic of Panama and the Government of the United States, which were officially represented at the Investigation, accepted that the provisions of Articles 3, 5, 13 (1) and 20 of the Universal Declaration of Human Rights were the law applicable to the subject matter of the Investigation. This was, I believe, the first occasion upon which the Universal Declaration was used and accepted at governmental level as a binding instrument of international law. This constitutes an important step in the evolution of the Universal Declaration as part of international law.

(b) *Guyana Commission of Inquiry*

The second inquiry was undertaken at the request of the Government of British Guiana, in 1965, consequent upon violent racial disturbances which had seriously disrupted the country, and with a view to preventing the recurrence of similar disturbances on the attainment by Guyana of complete independence. The object of the inquiry was to investigate allegations of racial discrimination within the public service and to make recommendations for the future structure of the public service within the context of a multi-racial society. Our report was one of the key documents before the constitutional conference on the future of British Guiana, held in the autumn of 1965. Subsequently, Order-in-Council No. 2161 of December 22, 1965, the Preamble to which refers specifically to our report, amended the Constitution of British Guiana by incorporating a number of our recommendations. Similar provisions were also included in the Consti-

tution of the new State Guyana in the spring of this year. This report has also aroused great interest in many other countries whose multi-racial structure gives rise to similar problems.

(c) *Angola Inquiry*

The purpose of the inquiry which we have undertaken into Angola, the draft report of which has already been completed, was to conduct a strictly objective investigation into the situation and, by eliminating the emotional elements which frequently falsify the picture, to arrive at an impartial and realistic presentation of the situation from which it might be possible to proceed to a constructive solution. The independent persons to whom we entrusted the inquiry obtained their information both from the government and from the opposition.

11. *Missions*

(a) *Indonesia*

We sent an observer to Indonesia in order to obtain a more precise picture of the situation after the attempted coup d'état against President Soekarno which was followed, as you will remember, by a terrible wave of repression resulting in hundreds of thousands of deaths.

(b) *Burundi*

We also sent an observer to Burundi after receiving particularly alarming reports on developments in that country. Our observer had a double mission: he was to clarify these reports and to try in so far as he was able to halt the series of executions which were taking place. His mission was a failure in the sense that, in spite of the assurances which we received from the Burundi Government before his departure, he was unable to obtain any assistance from the local authorities to enable him to carry out his mission, and was, in effect, placed in quarantine while a new series of executions was hastily carried out. But the long-term results of this mission have not been negative. The report which we published on the attitude of the Government of Burundi had a considerable effect in the world; the Government apologised for its treatment of our observer. There have been no further executions.

(c) *Conferences and Meetings*

Apart from these special missions, the Executive Secretary,

members of our Legal Staff and myself have represented the Commission at congresses and conferences of particular importance to us because they dealt with topics with which we are closely concerned, and have attended meetings organised by our own National Sections. Whenever possible, we take advantage of these journeys to establish contact with members of the government and of the Bench and Bar.

Among the countries thus visited were: Algeria, Austria, Australia, Belgium, Brazil, Cambodia, Ceylon, Cyprus, Denmark, England, Egypt, Ethiopia, Finland, France, Germany, Ghana, Guyana, Hungary, India, Ireland, Japan, Kenya, Malawi, Mexico, Netherlands, New Guinea, Nigeria, Pakistan, Senegal, Tanzania, Tunisia, Uganda, U.S.A., Zambia. We have also attended and addressed meetings of the United Nations Commission on Human Rights and other United Nations Conferences, as well as meetings organised by the International Bar Association, the International Law Association, Amnesty International, The Commonwealth and Empire Law Conference, the Inter-American Bar Association, the International Peace Bureau, the World Federation of United Nations Associations, the World Jewish Congress, Pax Romana, the World Council of Churches, the European-Atlantic Association and the World Veterans Federation.

We have developed particularly close relations with the Council of Europe and have also established relations with the Organisation for African Unity and the Arab League.

12. *I.C.J. Conferences and Meetings*

(a) *South-East Asian and Pacific Conference*

Our South-East Asian and Pacific Conference of Jurists held in Bangkok in February 1965 brought together more than 100 participants from 17 countries of the Region, in addition to a large number of observers from Thailand and other countries representing some dozen organisations. The seriousness and high standards of the work done, and the importance of the constructive conclusions to which it came, made this Conference an outstanding success. The subject was "The Dynamic Aspects of the Rule of Law in the Modern Age". Work was done in three committees dealing respectively with: Basic Requirements of Representative Government under the Rule of

Law ; Economic and Social Development within the Rule of Law ; and The Role of the Lawyer in a Developing Country. The distinguished participants at the Conference, who can be said to represent legal thought in that part of the world, emphatically reaffirmed the adhesion of the jurists of South-East Asia and the Pacific to the principles of justice which we uphold. They reached the encouraging conclusion that, given peace and stability, there were no intrinsic factors in the Region to prevent the establishment, maintenance and promotion of the Rule of Law.

Some time after the Conference, His Majesty the King of Thailand, through the intermediary of the Thai Bar, presented us, in recognition of our work, with a replica of the Stone of Justice which dates from 1292 and the text of which can be said to be the Magna Carta of the Thai people, laying down the rules of justice.

(b) Ceylon Colloquium

A further step forward was taken with the Ceylon Colloquium which was organised in Colombo in January 1966 by our Ceylon National Section as a follow-up to the Bangkok Conference. Many of the participants at Bangkok were again assembled in Colombo with their Ceylonese colleagues to examine ways and means of giving effect to the ideas launched at Bangkok. Four Working Committees were set up, one to work out a programme for bringing the principles of the Rule of Law to the man in the street and teaching him to understand and accept them ; the second was responsible for defining the circumstances and rules, compatible with the principles of the Rule of Law, within which nationalization of property could legitimately be carried out in the interests of society as a whole while respecting the rights of the individual ; a third examined the procedures to be adopted with a view to introducing the office of Parliamentary Commissioner (Ombudsman) in Asia and the Pacific area, where the problems involved are different from those in the homogenous countries where the institution already exists ; and the fourth worked out and proposed a programme of action for the Region as a contribution to International Year for Human Rights. The work undertaken was of an extremely realistic and constructive nature and great credit is due to the Ceylon National Section who were responsible for this initiative and the splendid organisation of the meeting.

(c) *Papua and New Guinea Seminar*

The Australian Section in conjunction with its New Guinea branch organised a most valuable Seminar at Port Moresby (New Guinea) from September 7 to 13, 1965, to consider the problems of "The Rule of Law in an Emerging Society". The organisation and the standard of the discussions as well as the conclusions could not have been better.

(d) *"Libre Justice" Meetings in Paris*

The French National Section, which celebrated its tenth anniversary in 1965, held a most successful Colloquium in collaboration with the British National Section on "Defamation in the Press and the New Communication Media" on July 4-5, 1965. "Libre Justice" organises annually important meetings to discuss selected legal themes to which representatives of other European National Sections are invited.

(e) *Austrian Seminars*

The Austrian National Section ("Österreichische Juristenkommission") holds annually most valuable Conferences to which, as well as representatives of European National Sections, lawyers from Eastern Europe are invited. These Conferences, which are divided into working sessions dealing with specific themes, constitute a most valuable meeting ground for lawyers from Eastern and Western Europe.

(f) *German Meetings*

The German National Section holds annual meetings which undertake constructive discussions on specific themes. They are attended by representatives from other European National Sections.

(g) *India*

The Indian Commission of Jurists organised in 1965 a Seminar on "The Executive and the Police". The Mysore State Commission of Jurists, which is a most active and well-organised Section, holds frequent Seminars on selected themes.

(h) *"Justice" (Britain)*

It would be impossible to review in detail the numerous valuable meetings, conferences and functions which our British National Section "Justice" organises. This most active, progressive and constructive National Section, which always main-

tains close contact with other European Sections, exercises considerable influence on legal development and cannot be too highly praised.

(i) *Australian Conference*

The Australian National Section has just embarked on a plan to hold a Conference every two years to which it will invite, in addition to members from Australia, representatives from Asian and Pacific neighbouring countries. The first such Conference has just been held.

(j) *Ceylon Seminars*

The Ceylon National Section has held several important Seminars and meetings to deal with special aspects related to the application of the Rule of Law in Ceylon.

13. *Future I.C.J. Conferences*

In addition to the normal Conferences which National Sections plan to hold, the following major Conferences are in the course of planning or envisaged.

(a) *Vienna Conference*

The Austrian National Section, "Österreichische Juristenkommission", is planning to hold in co-operation with the Secretariat a major Conference in Vienna on November 23-25, 1966, to which leading lawyers and representatives of European National Sections and lawyers from Eastern Europe are being invited. The theme of the Conference will be "The Citizen, Democracy and the Rule of Law" and major papers will be presented. It is anticipated that this will be a most important and valuable Conference.

(b) *Dakar Conference*

A major Regional Conference of French-speaking African Lawyers is being held in Dakar on January 5-9, 1967. "Libre Justice" is actively and most constructively co-operating with the Secretariat in the arrangements and preparations for the Conference. The theme of the Conference will be "The Function of Law in the Evolution of Human Society"; the work of the Conference will be divided between two Commissions, one dealing with "The Protection of the Individual from Arbi-

trary Action" and the other dealing with "The Role of Public Opinion in the Rule of Law".

(c) *Nordic Conference*

A Nordic Conference for early 1967 is envisaged and is in the planning stage.

(d) *Bangalore Conference*

A major Regional Conference organised by the Mysore State Commission of Jurists in conjunction with the Indian Commission of Jurists and the Secretariat is envisaged for early 1968.

(e) *East African Regional Conference*

A major Regional Conference for the East African area is envisaged for 1967 or 1968.

(f) *Human Rights Year 1968*

A large number of Conferences and Meetings are envisaged for the year 1968 in connection with Human Rights Year.

14. *Legal Education*

We have always emphasised the particular importance of the role of legal education in producing jurists both capable of taking a full part in the evolution of their country and willing — indeed anxious — to do so. This problem is particularly acute in the developing countries where the need for qualified native jurists conscious of their responsibilities is enormous. This is a matter which is under constant attention and has been discussed by me with lawyers and educationalists throughout Africa and also in New Guinea. We hope to be able to do something more in this field.

With the same problem in mind, we organised in 1962-63 a programme of seminars for law students or recent graduates. We were able to hold two such seminars, one in England, at Cumberland Lodge, and the other in France at Strasbourg, for young African jurists studying in these countries.

We have, however, been able to maintain the system by which we grant fellowships to enable young lawyers from overseas to familiarise themselves with the spirit and the work of the Commission by working with us for a period. We have thus had working with us in Geneva an Austrian, an American, two

Australians, a Peruvian, a Malawian and we have at the present moment with us a young woman jurist from Kenya and a young Singhalese lawyer.

15. *International Co-operation*

It is difficult to segregate which of our activities come under the heading of international co-operation exclusively ; in a sense practically all that we do is related both to national and international co-operation.

In the first place we have given the fullest support to the United Nations and its specialized agencies, in particular UNESCO with which we have now obtained consultative status, and the I.L.O. with which we have maintained a very close working relationship. I have already mentioned our active participation in the work of ECOSOC, of the U.N. Human Rights' Commission, of the Special Committee on Apartheid and of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities. We have also co-operated with the Inter-Governmental Regional Organisations, in particular with the Council of Europe, whose Convention for the protection of Human Rights provides a successful practical example for the protection of the Rule of Law under international law. We have also excellent relations with the Organisation of American States, the Organisation of African Unity and the Arab League.

On the non-governmental level we have worked together with all the principal organisations active in the legal field or in fields close to or complementary of our own. By way of example, I mention the World Federation of United Nations Associations, Amnesty International, the World Veterans' Federation, the International League for the Rights of Man, the World Council of Churches, Pax Romana and the Association of Catholic Lawyers, the World Jewish Congress, the International Peace Bureau, etc. Last, but not least, I should mention the International Committee of the Red Cross with whom we have very cordial relations. We consistently give our full support to the better application of the Geneva Conventions and to the extension of their scope. The International Commission of Jurists has also been elected this year to the permanent Bureau of the Conference of Non-Governmental Organisations in Consultative Status with ECOSOC.

The designation by the United Nations of 1968 as International Year for Human Rights — a decision affecting the United Nations, Governments and non-governmental organisations — was, we felt, an opportunity that provides an excellent means of alerting and mobilising governments and public opinion as to the need for more effective protection of human rights. We have therefore taken the initiative in bringing together the organisations dedicated, like us, to the United Nations and active in the human rights field, to work together and co-ordinate our activities, within the framework of a World Campaign for Human Rights, so as to make the International Human Rights Year 1968 an important turning point in the history of human liberty. Our initiative met with a favourable response, and the resolution which we presented to this end to the 10th General Conference of N.G.O.s was adopted unanimously. An International Committee of Non-Governmental Organisations for International Year for Human Rights has been set up and the Standing Committee that it appointed to undertake the actual organisation of the World Campaign has already started work. It will present its first report to the next meeting of the International Committee, which we hope will coincide with the celebrations to be arranged for Human Rights Day, the 10th December, this year.

Seán MACBRIDE.

CONGO-KINSHASA :

“ THE WHITSUN CONSPIRATORS ”

When Alexander the Great cut the Gordian Knot, he provided future generations with a lasting example that General Joseph-Désiré Mobutu followed on two occasions : on September 14, 1960, the latter had, in effect, carried out a first coup d'état when he “ neutralized ” President J. Kasavubu and the then Prime Minister, Patrice Lumumba, and, after having “ re-established legality ”, restored power to the civilians in February 1961 ; in the night of November 24-25, 1956, without bloodshed and without excessive deployment of troops, General Mobutu, promoted a few weeks before to the rank of Lieutenant-General by President Kasavubu, eliminated the latter and proclaimed himself President of the Republic for five years. By the same act, President Mobutu resolved the conflict which existed between President Kasavubu and his former Prime Minister, Moïse Tshombé, and disposed of Mr. Evariste Kimba ¹ and his ministerial team, who had been dealing only with current business since the Congolese Chamber of Deputies had refused them a vote of confidence the previous November 14, but whom President Kasavubu desired to keep in power and whom he had charged with the formation of a new government.

“ The Whitsun Conspiracy ”

On the morning of May 30, Whit Monday, President Mobutu addressed the following message to the Congolese people :

¹ Evariste Kimba : born on July 14, 1926 at Nsaka in the north of Katanga. For three years, from September 1960 to July 1963, he was the Katangase Minister of Foreign Affairs under the Tshombé régime during the period of secession. At the end of this period, he announced that he was retiring from active political life because, he said, he did not want to become involved in provincial affairs of minor importance. At the beginning of 1964, however, he formed his own political party — the Balubaket — which was supported by the Balubas living in his native region. He was appointed Prime Minister on November 18, 1965.

"Last night, a conspiracy aimed at my person and the new régime was plotted by a few irresponsible politicians. They have been arrested and will be tried for high treason. This conspiracy was foiled because of the vigilance and the loyalty of the members of the Congolese National Army. I ask you all, my dear compatriots, again to prove your maturity by maintaining your composure. Have faith in the justice of your country and refrain from demonstrations. It is by keeping calm and by quietly going about your business that you will demonstrate your loyalty to the régime and your disapproval of these few men who, impelled by the lure of gain, were ready to betray their fatherland."

Calm reigned at Leopoldville that morning and only the presence of additional troops was noticed. The Congolese National Radio broadcast the text of a proclamation, presented as a communiqué from the High Command of the Congolese National Army, that the National Radio stated the rebels intended to read in place of the usual commentator. This alleged communiqué from the High Command of the C.N.A. stated, more particularly, that :

"On November 24, 1965, the High Command of the Congolese National Army took power in order to save the political situation of the country, but subsequently it became apparent that the good faith of the High Command was betrayed. There had never been any thought of taking power for five years, because the army has only one all-important role : that of the defence of the national territory and the protection of persons and property. However, for more than six months our legislative institutions have been a dead letter and the object of mockery from abroad. Although our honorable deputies and senators continue to be a charge on the Treasury, they do not have any voice in the policy-making activities of the country in view of the fact that they are deprived of their legislative power."

The communiqué went on to deplore the "systematic disorganization of the economic system," the "re-orientation of the machinery of justice away from its intended purpose" and "the creation of a private militia, a single party in disguise, known as the Volunteer Corps of the Republic." There followed a series of decisions taken, according to the communiqué, by the High Command of the C.N.A. :

"General Mobutu, President of the Republic, and his government headed by General Mulamba, are relieved of their titles and functions as of today. Desiring to collaborate with all the good elements of the nation, the Congolese National Army, having no political role to play, restores political power to the civilians. To this end, the

High Command of the Congolese National Army calls on Mr. Jérôme Anany, who is charged with forming an executive committee for the purpose of re-establishing legality, i.e., a provisional government, and of assuring its proper functioning and continuance. It should assure the return to legality within the shortest possible period of time."

Radio-Leopoldville also specified that a few high-ranking army officers had participated in all the meetings preparatory to the abortive coup d'état. These meetings went back to the month of April. The most recent, declared the radio, was held during the night of Sunday to Monday, at the home of Colonel Bangala, Governor of the capital. It was at the end of this meeting, shortly after midnight, that the officers, after pretending to go along with the plotters, arrested the latter and escorted them to General Mobutu. "We owe our salvation," concluded Radio-Leopoldville, "only to the indefectible loyalty of the Congolese National Army to General Mobutu and to his government."

The four alleged instigators of the coup d'état were arrested. They were Messrs. Evariste Kimba, Prime Minister of President Kasavubu, Jérôme Anany, Defence Minister in the Adoula cabinet from 1962 to 1964, Emmanuel Bamba, senator, former Finance Minister in the Adoula government and Public Affairs Minister in the Kimba government and a close collaborator of President Kasavubu, and Alexandre Mahamba, holder of numerous portfolios in the Lumumba and Adoula governments. Mr. Cléophas Kamitatu, who was Foreign Affairs Minister in the Kimba government, also allegedly participated in the conspiracy but had fled. Other personalities, according to the radio, allegedly constituted a "Committee for the Return to Legality", specially created for the occasion, which included, among others, Mr. Albert Devaux, a former member of the Congolese government, and Mr. Jean Miruho, a senator who was believed to be a close collaborator of Mr. Kimba, who were also arrested following the attempted coup d'état.

Mr. Jean Kandé, Congolese High Commissioner of Information, during the course of a press conference on the morning of Monday, May 30, stated that "General Mobutu was to have been arrested last night at 4 o'clock in the morning and thrown into the Congo River"; he went on :

"The origin of the conspiracy goes back to last March 15. On that day, the Kimbanist leader, Emmanuel Bamba, proposed to a Congolese National Army officer, Major Etoni, stationed at the time in the city of Matadi, that he participate in a coup d'état against General Mobutu. The major pretended to accept this proposal but gave an account of what was afoot to General Mobutu. A few weeks later, Major Etoni was named Vice-Governor of the city of Kinshasa, which resulted in another visit from Mr. Bamba for the purpose of enlisting his aid in recruiting other high-ranking officers prepared to participate in the proposed coup d'état. The group of four leaders of the conspiracy (Messrs. Bamba, Anany, Kimba and Mahamba) was now formed. Still pretending to take part in the operation, the major recruited six officers on their behalf, one of whom was Colonel Bangala, Governor of the city of Kinshasa. The civilian conspirators and the army officers, who pretended to be their accomplices, held a total of three meetings, of which the last, which was supposed to immediately precede the launching of the coup d'état, took place on Saturday evening at the home of Colonel Bangala. During the course of this meeting, Mr. Anany specifically declared that it was time to take action, even it meant ten thousand deaths. But the conspirators did not have the opportunity to carry out their plot: on a sign from Colonel Bangala, four policemen burst into the room and placed the four civilian conspirators under arrest."

Mr. Kandé then added :

"Messrs. Kimba, Anany, Bamba and Mahamba are now going to appear before a military court which will sentence them to death and they will be hanged."

The Trial of the Conspirators

The four conspirators, hands tied behind their backs, were brought before President Mobutu on the afternoon of Monday, May 30; the latter, surrounded by his Ministers in the courtyard of his residence, interrogated them under a blazing sun. Eye-witnesses say that the defendants seemed to have been beaten and appeared very downcast; buckets of water were thrown on their hands for the purpose of contracting their bonds which were very tight. After a quarter of an hour's interrogation, they were taken away, no doubt to a military prison. No press correspondent or photographer had been authorized to be present at the session.

As far as is known, this was the only form of preliminary examination that preceded the trial, for the conspirators were not brought before an examining magistrate; this is all the less satisfactory since the examination was conducted by one of the interested parties, i.e. by President Mobutu, who was himself the target of the attempted conspiracy. A person cannot, of course, be both judge and party.

On Monday, May 30, President Mobutu signed a decree-law² creating a Special Military Court with jurisdiction to try cases of offences against the security of the state. The text was not published in the *Moniteur*, the official gazette, at once, and was made public by radio. It was not published until July 15, 1966 (No. 13, *Moniteur Congolais*, 7th year) and was distributed in September. By article 3, the Court itself lays down the procedure to be followed before it, and by article 4 there is no appeal against its decisions, which are immediately enforceable. The court which was going to try the conspirators was constituted, therefore, by a non-existent legal text in that it had not been published at the time and it was therefore impossible to know its exact contents, and one of retroactive effect in that it was relied upon to try charges based on facts anterior to its introduction.

² On March 22, 1966, President Mobutu signed a decree specifying that :

“Legislative power is conferred on the President of the Republic, who shall exercise it by decree-laws. Such decree-laws shall be forwarded, for information purposes, to the Chamber of Deputies and to the Senate within two weeks following the date of their signature.”

The President of the Republic thus assigned himself legislative power; Parliament was not dissolved, but henceforth it only played an academic role and practically never sat, decrees being submitted to it for information purposes only. A decree of November 30, 1965, had already given the President special legislative powers. According to the Congolese Constitution of August 1, 1964, the President of the Republic can exercise these powers only after having declared a state of emergency, which is precisely what President Mobutu did shortly after the coup d'état and for the five years that he anticipated remaining in power.

On September 5, 1966, President Mobutu restored to Parliament its constitutional powers, reserving to himself the right to legislate by decree only in case of emergency; this leaves hope for the re-establishment of legality in the Democratic Republic of the Congo.

Monday afternoon, May 30, was declared a public holiday by the government so that the public could attend the trial of the conspirators, which took place on the lawn of the officers' mess of the Colonel Kokolo military camp before 200,000 people. The court was composed of three majors. The four men appeared in chains, dirty, barefooted, bearing marks of obvious maltreatment, in disregard of Article 15, paragraph 2, of the Congolese Constitution, which provides that, "No-one shall be subjected to torture nor to inhuman or degrading treatment."

There was no public prosecutor to support the charges, and the proceedings do not allow one to form an opinion on the allegations made against the accused; neither was there any defence, and no counsel assisted them. The attitude of President Mobutu was that, after the confession of the accused, there was no need for defence counsel. Whatever the position, Article 124, paragraph 3, of the Congolese Constitution specifically provides that, "In cases where trial under military jurisdiction is substituted for trial by the ordinary courts and tribunals, the rights of defence and appeal cannot be suppressed." No documents were produced, no witnesses heard.

It was forbidden to take pictures or to film the trial, as well as to record what was said; in any case, the examination of the accused was almost inaudible even to the nearest spectators and reporters, pressed closely together in the crowd. It seemed that they stated in their defence that they had acted only at the instigation of the military who had taken the initiative to overthrow not the régime, but the government, and that there had never been any question of the physical elimination of a person in power. They asked for their acquittal. These statements were made against a background of shouts and screams from a specifically invited and particularly hostile crowd; the hearing therefore at no time displayed the characteristics of calmness, dignity and objectivity which are proper to a legal proceeding.

The court retired for a few minutes in order to deliberate and returned to pronounce its sentence of death, which was received with cries of joy from the crowd while the four condemned men regained their cell. It seems difficult to imagine that in such a short time the court was able to deliberate, and to draft in French and in Lingala a judgment which it took them longer to read than the period for which they had retired;

a fact which leads one to believe that the decision was, in actual fact, taken beforehand, as implied by the radio.

By article 2 of the decree-law of May 30, 1966, the Special Military Court can be seized by the President of the Republic of all offences against Title VIII of Part II of the Penal Code, relating to offences against the security of the state. This Title of the Penal Code has been replaced by decree-law No. 299 of December 16, 1963 (published in the *Moniteur Congolais*, No. 1 of 2.1.1964), which deals specifically with attacks on the internal security of the state and, in the new versions of articles 193 and 194, with attacks and conspiracies against the Head of State. These articles provide :

" 193. An attack on the life or the person of the Head of State shall be punished with death.

If the attack did not interfere with the freedom of the Head of State, and if it did not cause him any bleeding, or wound, or illness, an attack on his person shall be punished with penal servitude for life.

" 194. A conspiracy against the life or the person of the Head of State shall be punished with penal servitude for ten to fifteen years if some step has been taken towards putting it into effect, and with penal servitude for five to ten years if no such step has been taken.

If a suggestion has been made but no agreement has been reached to form a conspiracy against the life or the person of the Head of State, the person making such a suggestion shall be punished with penal servitude for one to five years."

It is clear that article 194 was the provision applicable in this case, and that, in accordance with the first paragraph of that article, the accused should have been sentenced to between five and ten years' penal servitude.

The only possibility of appeal offered to the condemned men was pursuant to the terms of Article 124, paragraph 3, of the Congolese Constitution : a plea for mercy to the President of the Republic. In the evening of Wednesday, June 1, President Mobutu is said to have signed an order reprieving the four condemned men, but a full Council of Ministers was convened between midnight and three o'clock in the morning for the purpose of studying the pressures being exerted on the Congolese Government by foreign personalities and governments, and by

international organizations, in order to persuade it to reprieve the condemned men. However, the Council did not consider it to be its duty to set aside the sentences pronounced by the Special Military Court, and their execution by hanging was set for the next morning, Thursday, June 2, which was declared a public holiday.

The Public Execution

The public execution took place in the main square in the centre of the capital where the gallows had been erected the night before. The number of Congolese who came to attend the hanging is estimated at three hundred thousand ; the square was surrounded by truckloads of soldiers and by barricades of paratroops holding the crowd some 50 yards back from the place of execution. Shortly before the execution began, sobbing was heard from the family of one of the condemned near the gallows : two dishevelled women, naked to the waist, and four children. The only high-ranking personality present was the Commander-in-Chief of the Congolese National Army, General Louis Bobozo ; the presiding judge of the Special Military Court, Colonel Pierre Engila, was also present.

Dressed in black, hooded, the executioner was the first to climb the steps leading to the platform of the gallows. The condemned men were driven up in a jeep : three priests, dressed in white, stood by at the foot of the gallows, ready to assist them, near four white coffins, one of which was already open.

First, Evariste Kimba mounted the ladder, wearing only blue shorts with red and white stripes, his head covered by a black hood, hands tied very tightly behind his back ; a few protests came from the crowd, but no outburst of any kind. The executioner read the sentence and made the preparations for the execution, which took a few minutes. The trap door of the gallows gave way under the feet of the prisoner who disappeared completely ; screams burst from the crowd. The executioner, being no doubt inexperienced, made the death agony last about twenty minutes while the three other condemned men waited their turn in the jeep which had brought them. The execution of Emmanuel Bamba and of Jérôme Anany took place in the same fashion.

When the executioner placed the rope around the neck of the fourth prisoner to be executed, Alexandre Mahamba, the crowd suddenly broke through the barricade which separated it from the gallows; this provoked a vast movement of panic, people were trampled, the crowd screamed in pain or in terror: the incident lasted only a few minutes and emptied the square of some of the spectators. The nerves of the crowd had been laid bare by this execution in violation of the National Constitution, which stipulates in Article 15, paragraph 3, that, "No one shall be subjected ... to ... inhuman or degrading punishment."

The Situation Following the Quadruple Execution

On June 4, correspondents from Radio-Brussels questioned President Mobutu, particularly on the subject of the quadruple execution of two days before. The President declared that, in his opinion, it had been really necessary and that if it seemed illogical to Europeans it is because they reason with their Cartesian logic on problems facing Bantus. For a Bantu, respect for the chief is sacred, and in a country which has already so often been the scene of rebellions, it was necessary to react, and with methods which are not necessarily those of Europeans; authority is in the hands of President Mobutu for five years and it is not for a group of politicians to provoke disorder in the country. Be that as it may, notwithstanding all the disorder that the country has known since 1960, it is the first time that the capital of the Congo has witnessed the execution of political leaders; if the execution of the four Ministers caused great concern in the outside world, it did not pass without criticism in the heart of the African continent and in Congo-Kinshasa itself.

The government had to act in order to contain the disturbances which threatened to arise in the weeks which followed. In particular, it was learned that a curfew of eleven hours had been imposed in the capital of North Katanga as a result of rumours that the Balubas were on the warpath in order to avenge the death of their leader, Evariste Kimba. The religious Kimbanist sect, of which Emmanuel Bamba was one of the leaders, was banned because it "threatened to jeopardize public law and order"; this sect, founded on the principle of non-

violence, had hundreds of thousands of followers, especially in the southwest of the country, where the tribe of Mr. Bamba, the Bakongo, lived. Relations between the Mobutu government and the foreign press became strained, the latter being accused of reporting the events in a tendentious manner, with the result that a certain number of correspondents were expelled from the country, notwithstanding the fact that President Mobutu, upon his access to power, had suppressed all measures of censorship, as regards both local and foreign press, in accordance with Articles 25 and 26 of the Constitution.

A few days after the execution of the prisoners, three bombs exploded in the capital without causing any victims, but increasing the tension which prevailed at the time; Radio-Kinshasa established a relationship between these explosions and the arrest of a mercenary who had broken into the home of Mr. J. J. Kandé, High Commissioner of Information. The police announced that severe measure had been taken in the capital, which included, in particular, the inspection of vehicles and a thorough search of persons; security forces stationed in the Congolese capital and on certain strategic roads and airports had, in addition, already been strongly reinforced following the execution of the "Whitsun Conspirators". These events took place during the two weeks which separated the trial of the four principal defendants of the "Whitsun Conspiracy" from that of Mr. Cléophas Kamitatu.

The Trial of Mr. Cléophas Kamitatu

When Mr. Kandé, High Commissioner of Information, revealed the existence of the conspiracy on the morning of May 30, he added that numerous politicians implicated in the affair would be arrested. Mr. Cléophas Kamitatu, Mr. Kimba's former Foreign Affairs Minister, whose name appeared in the proclamation prepared by the rebels, subsequently issued a communiqué denying that he had been a party to the "Whitsun Conspiracy" and reaffirmed his loyalty to the régime of President Mobutu. He gave himself up to the military authorities on June 1 and reiterated the declaration made two days before. He was detained and interrogated by the military authorities, and is said to have gone on a hunger strike as a

sign of protest. The population of Kinshasa was informed by the local newspapers and the radio on the morning of June 18 that the trial of Cléophas Kamitatu would be held that same morning at Camp Kokolo, where the trial of the four principal accused of the "Whitsun Conspiracy" had already taken place, and before the same Special Military Court. The trial was to be in public.

The opening of the trial, originally scheduled for 9 o'clock, was postponed to 11 o'clock, and it was then decided to hold it *in camera*. This measure is astonishing when one considers that Mr. Kamitatu was accused of collusion with the conspirators who were tried in the public square in front of some tens of thousands of persons. Perhaps it was in reaction to the general criticism raised by the extraordinary first proceedings. However, the second solution is at least as open to criticism as the first, because while it is certain that there was no indictment, no defence, nor any true trial in the first case, it is permissible to believe that the second proceeding did not provide any further guarantees.

The Belgian League for the Protection of the Rights of Man had sent an observer to Kinshasa, where he was assured by President Mobutu that he would be able to attend the trial; in spite of that assurance, he was denied admission to the courtroom by the presiding judge of the court by "Military Order" and for lack of written authorization from the President of the Republic permitting him to be present at the proceedings. The word of the Chief of State, borne by an accredited observer, did not suffice, therefore, to breach the strict secrecy of the proceedings.

Cléophas Kamitatu entered the room where the court was sitting, barefooted, but apparently in good physical condition, escorted by four soldiers with fixed bayonets, preceded and followed by policemen. The trial lasted less than an hour. During this time, in the nearby officers' mess, they were celebrating with fanfares and champagne the promotion of the officers who had foiled the "Whitsun Conspiracy".

Not even judgment was pronounced in public. Colonel Malila, Chief of the General Staff of the C.N.A., subsequently held a press conference announcing the condemnation of Mr. Kamitatu to five years' capital penal servitude (imprisonment), and stating that there were partial confessions by the accused,

that "the judgment had been pronounced legally" and "that malcontents were not tolerated in a legally established government." When pressed to say whether Mr. Kamitatu had been defended by counsel, Colonel Malila replied: "No defence is authorized by the special courts." The sentence passed on Mr. Kamitatu is the minimum provided for by the new text of article 194 of the Penal Code for a conspiracy against the Head of State that has not been followed by steps towards its execution.

When President Mobutu took power, he issued a thirteen-point proclamation, in which it is stated that all rights guaranteed by the Constitution of the Democratic Republic of the Congo of August 1, 1964, will be respected. In effect, the text includes an entire chapter — Chapter II — devoted to fundamental rights and very obviously inspired by the Universal Declaration of Human Rights. This part of the President's proclamation eliminates all doubt which could arise from a reading of the second paragraph of Article 12 of the Constitution, which provides that when a state of emergency is proclaimed, no derogation shall be made from the guarantee of certain specified rights; however, these do not include all the rights designed to ensure a fair trial.

Articles 17 to 23 are of a precision and clarity which is obvious from a mere reading:

Art. 17. "Personal liberty is guaranteed.

No one can be arrested nor detained except by virtue of the law and in accordance with the procedure that it prescribes.

Art. 18. "Every person arrested must be informed immediately, or within 24 hours at the latest, of the reasons for his arrest and of all charges brought against him in a language that he understands.

He can be remanded in custody only by virtue of an order of the competent court and in the cases and for the duration specifically provided by law.

He has the right to appeal against an order for his remand in custody.

Art. 19. "Every person who is the victim of an arrest or of detention in circumstances contrary to the provisions of Articles 17 and 18 hereof has the right to fair compensation for the damage which he has suffered or to an equitable indemnity.

Art. 20. "Every person has the right to a fair hearing of his case within a reasonable time by the competent court.

He has the right to defend himself or to be assisted by counsel of his choice.

No one can be deprived against his will of the judge to whom his case is assigned by law.

The conditions of indigence and the gravity of the charges which justify legal aid shall be determined by law.

Art. 21. "The hearings of the courts and tribunals shall be open to the public unless a public hearing will be harmful to public law and order or morality; in this instance, the court shall order the case to be heard *in camera* by means of a written and reasoned decision.

Art. 22. "No one can be prosecuted save for offences laid down by law and in the form prescribed by the law.

No one can be prosecuted for an act or an omission which did not constitute a violation both at the time of perpetration and at the time of the proceedings.

Art. 23. "Every person accused of an offence is presumed innocent until his guilt is established by a final decision.

Every decision shall be pronounced in open court. It shall be in writing and supported by reasons.

No punishment can be pronounced or inflicted if it is not provided for by law.

No one can be convicted on account of an act or an omission which did not constitute an offence both at the time of perpetration and at the time of conviction.

Punishment more onerous than that applicable at the time when the offence was committed cannot be imposed.

If the law in force punishes an offence with a less onerous penalty than that provided for by the law in force at the time when the violation was committed, the judge shall impose the lesser punishment.

The grounds of justification, excuse and non-responsibility shall be determined by law.

The right of appeal against a conviction and sentence is guaranteed to all in accordance with the law.

It is obvious that the existence of Article 22, paragraph 2, as well as of Article 20, Paragraphs 1 to 3, was known at the time of the two trials analysed previously; these are precisely the Articles which seemed so important to the authors of the Constitution that no derogation can be made from them even in a state of emergency; likewise, article 21 was also obviously ignored during the trial of Mr. Kamitatu. In the same way, all the provisions of Article 23 were ignored, especially as regards the principle *nulla poena, nullum crimen sine lege*,

as well as the provisions of Article 15, paragraph 2, and Article 124, paragraph 3, as has already been pointed out.

Even if one assumes that the fact that Parliament has been entrusted with the revision of the Constitution suffices to suspend its application, the situation would not be fundamentally different, since in the thirteen points of his declaration President Mobutu affirmed the adherence of the Democratic Republic of the Congo to the United Nations Charter; therefore, since the Congo is a member state of the United Nations, the Universal Declaration of Human Rights, Articles 8 to 11 of which deal with guarantees designed to ensure a fair trial, should constitute the ideal to which it should aspire.

The considerable emotion aroused in the world, and even in the Congo, by the conviction and the execution of the four Whitsun conspirators no doubt had a salutary effect on the evolution of the leaders of the Democratic Republic, as is shown by the statement made by the Military Court a few days later, explaining that it had nothing to do with the trial of the four former Ministers, which was held before a Special Military Court.

This attitude of self-justification and self-defence was also adopted by President Mobutu, first when he spoke of a situation facing the Bantus that cartesian minds could not grasp and subsequently during an interview that he granted to *Progrès*, in which he justified his refusal of clemency for the four hanged men by evoking the lesson of the past when hundreds of lives were sacrificed during the Katangese secession and by the activities of the rebel leaders; in other words, it was an act intended to serve as an example.

When President Mobutu assumed power, however, one of his first acts was the liberation of political prisoners, among whom was Mr. Antoine Gizenga, former Minister in the Lumumba government, who had been imprisoned under the Kasavubu régime. This seems to be an act almost normal to the alternating reigns of the leaders of present-day Africa, and the death penalty inflicted on the unfortunate leaders of the Whitsun Conspiracy at the time it was discovered is a tragedy which should not have taken place.

President Mobutu no doubt gave some thought to this situation, leaving room for hope for any similar situation which

might occur in the future in the Congo or in any such other African country, when he saw to it that Mr. Cléophas Kamitatu was only sentenced to a prison term, meditating perhaps on the advice that Corneille gave to the Emperor Octavius-Augustus :

“Examine your own conscience, Octavius, and stop complaining.
You want to be spared, having yourself spared nothing ?

(Cinna or the Mercy of Augustus.)

AGRICULTURAL REFORMS IN EASTERN EUROPE

Agriculture was traditionally the basis of the economy of East European countries with the exception of Czechoslovakia. The enforced collectivization of land following the communist seizure of power caused an upheaval in the social and economic structure of the East European communist states: this upheaval led to considerable disorganisation, human suffering and often a fall in production. A belated realization of these factors has led recently to some modifications in the original collectivization policies in Eastern Europe. The purpose of this article is to review the present trends in this direction.

Legislation concerning agricultural collectives and state farms is being altered or amended all over Eastern Europe. In Hungary a new system of bonuses paid to members of collective farms was introduced from 1963. In Czechoslovakia the Sixth Congress of Uniform Agricultural Co-operatives was held in 1964 to "raise the standards of agriculture to those of industry by 1970". In the USSR a special Plenum of the Central Committee of the CPSU was held in March 1965 to deal with difficult agricultural problems. Bulgaria and Rumania worked out new Statutes for collective farms in 1965; Bulgaria introduced in January 1966 election by secret ballot in certain collective farms to elect farm managers. In East Germany, the Ninth National Peasants' Congress had reform measures on its agenda in February 1966. In Rumania the National Union of Agricultural Co-operatives was established in March 1966. Another special Plenum was held in Moscow in May 1966 on agricultural problems and the convocation of the next All-Union Congress of Agricultural Collective Farmers was announced for the summer of 1966. New legislation in regard to the management of agriculture, planning and marketing is under preparation or is being introduced gradually in many countries of Eastern Europe. Thus public attention is focussed once again on a vital aspect of the Soviet type socialist system. It is proposed here to trace the background to the socialist system of agriculture and to give an overall picture of recent developments.

Historical Retrospect

When the Bolshevik Party seized power in Russia in November 1917, one of the first decrees enacted proclaimed the socialization of land. Lenin made it clear that he expected thereby to win peasants to the Soviet side. It was a long-standing desire of peasants to become owners of the land they tilled. Holdings of the landowners were distributed among the peasants on the basis of toil tenure during the earlier period. Ten years later a basic change was brought about in Soviet agricultural policy. Invoking Marxist ideological principles, the Government inaugurated collectivization of land as part of the new policy of the First Five Year Plan. Stalin had the following to say on the subject :

...The object of the Five Year Plan was... to re-equip and re-organize not only industry as a whole but also transportation and agriculture on the basis of socialism... In order to consolidate the dictatorship of the proletariat... it was necessary to pass from small individual peasant farming to large-scale collective agriculture, equipped with tractors and modern agricultural machinery, as the only firm basis for Soviet power in the country. (I. V. STALIN, *Problems of Leninism*, English ed., 1940, pp. 409, 421.)

The drive to establish big state farms, the *sovkhozy*, was started in 1928, followed in 1929 by the move to transform the social structure of the countryside: collectivization of small peasant farming. These moves had a double purpose: an economic one, namely to achieve a higher yield in the proposed mechanized "wheat and meat factories"; and a social and political purpose, namely to convert independent peasants into disciplined industrial workers depending on the government for their livelihood. Collectivization in the Soviet Union affected more than 20 million independent producers who had refused to believe in the advantages of large-scale farming. Accordingly compulsion, previously avoided, had to be resorted to. In February 1930 a Decree assigning the chief grain producing regions to "wholesale collectivization" declared collective farms to be the only permissible form of land tenure in the USSR. Forcible methods were decreed. Collectivization of land was effected in the thirties all over the Soviet Union with a ruthlessness for which Stalin became notorious. It implied extremely heavy sacrifices.

When agriculture was socialized in the Soviet Union there was no precedent for a marxist organization of labour on land.

The Standard Charter of Agricultural Artel (Collective Farm), was published in 1935 as a law of the Soviet Union. It regulated the establishment and operation of collective farms and their members and households. According to these rules, all citizens above 16 years of age, without discrimination, have the right to become members of collective farms. The members have an equal right to work, to receive compensation for their work, to take part in the management, and to elect and be elected to the management organs. These principles were called the postulate of kolkhoz democracy.

Difficulties were enormous even after the first years of transformation. The 18th Congress of the Communist Party of the Soviet Union (Bolsheviks) of 1939 had to recognize that

"the main question is to make the collective farmers interested in securing good harvests... Actually the difficulty of further increasing labour productivity is due mainly to egalitarianism... and to depersonalization (of work)..."

For the various reasons mentioned above, labour productivity in the kolkhozy on an hourly basis did not measurably exceed that of the pre-collectivization peasant, and may have been even less. The release of labour from agriculture expected as a result of collectivization did not materialize.

"Ultimately, labour had to be drafted from the kolkhozy for industry in the same way as for military service, while peasants had to be tied to the kolkhozy by such measures as obligatory minimum of work for the kolkhoz and even limitation of free movement. But at best this insured *hours of work*, not quality... The economy based on such foundations is neither efficient nor stable." (N. JASNY.)

A corrective to the principle of socialized agriculture was from the beginning the system of private plots. While land tenure and the basic instruments and means of production and labour are collectivized, dwelling houses, productive livestock, poultry and minor farming implements remain the personal property of the collective-farm household. There may be also added a small garden plot for private cultivation. This means the co-existence of private farming enclaves in collective farming as a compromise between the official policy and the individualism of the peasants. These private plots are supplying even today about half of the milk and meat, nearly all the eggs and much of the fruit and vegetables consumed by the population in the USSR.

In order to raise the productivity of the system, nearly once in every five years an administrative re-organization took place, preceded by a condemnation of the methods previously adopted. In spite of these re-organizations the productive system remained basically unchanged. Self-management of collective farms continued to be very limited in planning, in management, in selling their produce or in distributing their income, which, in fact, was almost nil. Due to all-embracing regulations from above, their members were economically in an inferior position to workers on State farms. State farms pay a minimum wage to their workers, even if inferior to the wages paid in industry, whereas collective farm members were often reduced to a small food ration and to what they were able to grow on their private plot.

The establishment of Communist regimes in other countries of Eastern Europe after World War II extended the application of the Soviet system in agriculture to these countries as well. The experiences forced upon the peasantry for ideological and political reasons led to the sobering fact that all Eastern European states, with the exception of Rumania, had to import grain and fodder in the decade 1956-65 (*Economist*, London, December 4, 1965). The amount of wheat purchases of the Soviet Union and of East European states rose from 2 million tons in 1956 to 19 million tons in 1965. Grain crops declined in spite of the drive to extend grain-crop land.

The Minister of Finance of the USSR, Mr. Garbuzov, attributed low productivity to deficient investment in agriculture (March Plenum, 1965, Material, Moscow, 1965). In 1965/66 official statements announced in most East European countries serious problems in agriculture, stated modestly in the "Theses of the 13th Party Congress of the Communist Party of Czechoslovakia" of June 1966, in the following terms:

"Despite all previous measures... it has not been possible to obtain the requisite growth of agriculture..."

Economic reforms in Eastern European countries brought about a re-appraisal of agricultural policy. The task that had to be faced in order to increase the productivity of labour in agriculture included not only increasing investment in agriculture by promoting mechanization and the use of more fertilizers, but also re-evaluating what is called "the human factor".

Forced collectivization disregarded this human factor everywhere and diminished the interest of peasants in their col-

lectivized and depersonalized work. Different methods were proposed to resuscitate the peasant's lost interest. One was partial de-collectivization, which allowed scope for individual farming. Such measures were adopted by Yugoslavia (after 1949), in Hungary (1953-1954, 1956-57 followed by wholesale re-collectivization in 1961) and in Poland (1956). As a result, the agriculture of Yugoslavia and Poland is based on individual peasant farming, while co-operative and state farms play a very important, yet secondary, role.

The other method was to increase self-management of agricultural collective farms, to raise their economic independence and put them on a more favourable position in the price system of socialist economy. This second method is being experimented with since 1964 in a series of East European countries: in Bulgaria, Czechoslovakia, East Germany, Hungary, Rumania and the USSR. A survey of the measures adopted in each country will be published in the next number of the *Bulletin*.

FACETS OF THE RULE OF LAW IN LATIN AMERICA

A historical analysis of Latin America since its emergence as a politically independent region a century and a half ago reveals one constant factor meriting detailed study: the cyclical nature of the socio-political troubles which affect it. It would, however, be beyond the scope of the present article to go back into history in order to adduce corroboration of this statement and mention will merely be made of some recent institutional problems, with particular reference to the situation in certain countries, which clearly illustrate the crisis affecting the representative form of government and democratic institutions — a crisis which is a chronic affliction in the region.

To refresh the reader's memory, the following breaches of constitutional order may be mentioned: the coup d'état in Argentina against President Frondizi in March 1962; the March 1963 coup d'état in Guatemala, followed by the setting up of a military régime; the July 1963 military coup d'état in Ecuador; the October 1963 coup d'état in Honduras; the removal by a military coup d'état of the first freely elected President of the Dominican Republic, Dr. Juan Bosch, in September 1963, followed by the outbreak 18 months later of the civil war, with its dramatic dangers for Dominican sovereignty; the removal in November 1964 of President Paz Estenssoro of Bolivia; the coup d'état against President Goulart of Brazil in April 1964; and, more recently, the removal of President Arturo Illia and the taking of power by the military in Argentina.¹

The Regime of General Stroessner in Paraguay

The crisis in democratic institutions on the American Continent can best be illustrated by citing the case of Paraguay, where the dictatorship of General Alfredo Stroessner has lasted

¹ See *Bulletin of the International Commission of Jurists*, Nos. 15 (April 1963), 17 (December 1963), 20 (September 1964) and 22 (April 1965).

for 12 years, and, even in a Latin American context, constitutes an anachronism.

General Stroessner, who headed the military coup d'état against President Chaves on May 4, 1954, came to supreme office in the country as the sole candidate in the elections held on July 11 of the same year. With the support of the *Colorado* party, the only party recognised, and of the army, he thus governed the country from August 1954 until 1958 when, being once again the sole candidate, he was re-elected to the Presidency. In 1963, claiming that the period 1954-58 had been merely the completion of the mandate of the previous President and therefore could not be taken into consideration, he was re-elected to a third term of office, in flagrant contradiction with the relevant provisions of the 1940 Constitution.

Since 1954 General Stroessner has ruled the country with absolute powers under Article 52 of the 1940 Constitution, which provides for the declaration of a state of emergency when internal disturbances or external conflicts represent a serious threat to the operation of the Constitution. During a state of emergency the President of the Republic can order the arrest of any suspected persons. He can also assign them to residence anywhere in the Republic, unless they prefer to leave the country. It should be mentioned that a state of emergency has actually been in force in Paraguay since 1947. There is every indication that a Constituent Assembly, completely dominated by the President, will be convened in due course to amend the Constitution with the object of enabling President Stroessner to be re-elected in 1968 for a fourth term.

The political machinery brought into operation by General Stroessner is based on a power structure such as to enable him to continue his rule entirely unobstructed. One of his most effective stratagems was the weakening of the power of the army by dividing it into several units, thus eliminating the political pressure it would have been able to exercise as a unified force, without, however, thereby reducing its efficacy as a weapon in the hands of the Executive. Another weapon in General Stroessner's dictatorship is the all-powerful political police which operates without the constraint of any judicial control, to the prejudice of detained persons and of the ordinary citizen. The early years of the Stroessner dictatorship were characterised by particularly severe violations of individual rights and remedies. An

extremely high level of political emigration is the best proof of the police system instituted in the country, which in consequence is virtually isolated from other countries.²

One of the most serious politico-legal problems in Paraguay and an infallible weapon in the oppression exercised by the Stroessner government is the perpetuation of the state of emergency, which is regulated by Article 52 of the Constitution. The Paraguayan College of Lawyers took an unequivocal stand against this abnormal situation, and on May 7, 1965, formally condemned this flagrant violation of human rights and proclaimed its profound esteem for the "real validity of the laws...".

In view of the importance of this document³ — which strengthens the conviction of the Commission that an independent and determined bar association is an essential element in exercising pressure against arbitrary action on the part of the State — and of the courage required to take a public stand in a country like Paraguay, extracts from the declaration are given below :

"The Governing Council of the Paraguayan Lawyers' Association declares :

... ..
3. That the state of emergency, considered in the light of its historical background and of its function as an extraordinary measure of defence for the preservation of the social order at times of grave and imminent peril — thus when an obviously exceptional situation obtains — constitutes an emergency measure which is *essentially transitory* in nature. When the danger (internal disturbance or international war) has been averted and constitutional order restored, the state of emergency should be lifted immediately. Article 52 of the 1940 Constitution observes this principle beyond all doubt in laying down the conditions under which a state of emergency may be declared. Nothing in the text permits of an interpretation by which a permanent state of emergency could be instituted, or by which the power to introduce such a provision could be implied solely on the grounds that the Article does not specify the duration of a state of emergency... When the acts of the public authority do not comply with a 'certain degree of reasonableness' and excesses and arbitrary actions result, overriding other constitutionally guaranteed rights such as the inviolable

² See "Prison Conditions in Paraguay — A Factual Report Compiled by Amnesty International", August 1966, London.

³ See *Boletín del Colegio de Abogados del Paraguay*, No. 2, June 1965, Asunción, Paraguay.

right to a defence lawyer, the right to be tried and sentenced exclusively by a court of law, the prohibition of arrest without a judicial order, the right to freedom of speech and freedom of assembly, etc., judicial control becomes a fundamental condition for the subsistence of constitutional order. The rights expressly formulated in the Constitution, which is the supreme law of the nation, are not mere theoretical pronouncements; they are imperative provisions, with obligatory force, which the judges must apply.

4. That the 1940 Constitution, despite its anti-liberal tendencies and the powerful means by which it has strengthened the powers of the Executive, did not go to the extreme of instituting dictatorship as a form of government. Apart from guaranteeing individual rights (Articles 19, 21, 26, 27, etc.), it expressly forbids the granting of extraordinary or supreme powers under which *the life, honour and property of Paraguayans would be at the mercy of the Government or any person* (Article 16). It makes categorical provision for the independence of the Judiciary (Article 87), forbids members of the Executive to arrogate to themselves judicial functions or to intervene in any way with the judgments of the courts, and institutes special exemptions for the protection of judges.

In pointing to these provisions, which are of universal validity, the intention is not to lend an aura of virtue to this "Political Charter", which is universally condemned by public opinion, nor are its inherent defects being overlooked... Nor again is it the intention to justify those now making use of the Constitution, since responsibility does not rest solely with those who drew up this operative instrument — it must be shared by those who use, and abuse it. No one doubts or disputes the need to change the Constitution, but until such time arrives it is the duty of lawyers to struggle to ensure that it be interpreted and applied in favour of freedom and human dignity.

5. That, faced with the present unforeseen reality of a state of emergency *sine die*, imposed continually year after year, with an emergency measure, essentially transitory in nature, being transformed into a normal system of government, it must be acknowledged that this unhappy anomaly is not a juridical creation of the 1940 Constitution but rather the manifestation of an obvious abuse of power...

6. That the aim properly pursued in imposing a state of emergency is the preservation of the Constitution, not its destruction. But if this expedient is employed for other ends, purely oppressive in nature, if arrests are made without just cause and if detention can, without any intervention by a judge, last as long as a prison sentence, without the accused even knowing what the charge is or who is accusing him, then it can be affirmed with certainty that there has been a profound change in the constitutional order...

7. That the crucial problem is that of translating these doctrines and constitutional provisions into practice in such a way that any violations of fundamental rights, resulting from illegal actions

or proceedings on the part of the public authorities, may find a rapid and effective remedy through *habeas corpus* proceedings to put an end to illegal detention, and through the remedy of *amparo*⁴ to secure redress in respect of other violations of rights guaranteed by the Constitution.

8. That in order to achieve this result the effective independence of the judiciary is necessary... judges must possess the qualities of probity, integrity and authority necessary to uphold the position of the judiciary in all circumstances. Judges, as interpreters of the laws and particularly of the Supreme Law, must jealously preserve the rights and freedoms they are asked to uphold... Paraguay — irrespective of the defects its political charter may contain — maintains that it is organised as a constitutional State. Respect for human rights and guarantees is the teleological basis of the Constitution, which should be duly preserved by the judicial authority created to protect it."

The New Regime in Argentina

On June 28, 1966, a revolutionary junta composed of the Commanders-in-Chief of the three branches of the armed forces took over the government of the Argentine Republic, deposing the President of the nation, Dr. Arturo Illia, the Vice-President, the provincial Governors and Vice-Governors, dissolving the national and provincial legislatures and removing from office the members of the Supreme Court of Justice. The junta moreover instituted a new juridico-political system and dissolved the political parties; it brought the Statute of the Revolution into force and laid down the political objectives to be pursued. Immediately afterwards it designated General Juan Onganía as President of the Republic.

These developments constituted one of the most far-reaching changes in the institutional life of Argentina in recent years, since they affected the very foundations of the political system of the country. The Argentine coup d'état has effected a revolution in the scientific meaning of the term: a final breakdown of the existing constitutional order. In the institutional field, the present revolution is proclaimed in several documents: the message of the revolutionary junta to the Argentine people, subsequently called the Act of the Argentine Revolution; the Statute of the

⁴ *Amparo* is a remedy provided by the courts of law against any interference on the part of the executive with fundamental rights and freedoms.

Argentine Revolution ; Appendix 3 to the Act of the Argentine Revolution ; and the "Policies" of the national Government. Other sources meriting special attention are the speeches of General Onganía to the people of the nation on June 30, to the armed forces on July 6 and his Tucumán speech to the country on July 9.

From these documents it emerges that the junta is invested with constituent power and represents all the people, and that the governors must be guided by the Aims of the Revolution, by the Statute of the Revolution and by the National Constitution to the extent that its provisions are not in conflict with the Act of the Revolution. The proclaimed aims of the new Argentine leaders are : a transformation of the substance of the political structures ; a national transformation as a historical necessity, eliminating what the junta, referring to the deposed government, calls "the fallacy of formal legality" ; the commencement of a new stage in the life of the country, with a new concept of national policy and the introduction of new political and institutional systems. The armed forces, claiming that the mechanism for the representation of the will of the people had been brought to collapse, have advanced themselves as spokesmen for its legitimate expression.

Such declarations imply that there has been a change in the organ of sovereignty and constituent power. An attempt is made to justify the unilateral and highly controversial decision to remove from office the members of the Supreme Court by reliance on the need to renew a judicial power which has sworn allegiance to a legal order different from that which has obtained since the Revolution. Thus, as final interpreters of the fundamental law, irrespective of what this may be, the Supreme Court should be composed of judges who have sworn to apply it without being tied to previous systems. Such a justification contradicts one of the fundamental principles to be observed in a State ruled by law, i.e. the independence of the Judiciary.

Turning to the dissolution of all the political parties, it should be noted that this, unfortunately, must be interpreted as an abolition of the political system and not as the temporary prohibition of certain political parties. Such an interpretation is consistent with the present Government's attitude, which is that it is not provisional or transitory but permanent : the President is not provisional, and the heads of the provincial governments

are not appointed as caretakers but as full governors. This means, in brief, the pure and simple abandonment of the principle of representative government.

Faced with the fact that the army has arrogated to itself the exercise of constituent power and has put its own system into operation, constitutional law can have little to say as regards who is the holder of power. Nevertheless, some considerations must be borne in mind. First, the coup d'état was not directed against any tyranny and thus cannot lay claim to the right to resist oppression, a right admitted by some constitutional lawyers. In General Onganía's words, the people reassumed supreme power in a rebellion in defence of their future, a reason which is obviously far removed from constitutional theory. The possibility of attributing to the authors of the coup d'état the desire or will for constitutional continuity or restoration of the Constitution is thus removed *ab initio*. What is relevant is the fact that the armed forces are the real holders of constituent power, a power which they have effectively exercised by instituting a new state structure.

The government which preceded General Onganía was that carried on for 24 hours by the revolutionary junta. That government then handed over control to the citizen designated by it as President of the Argentine Nation. The junta exercised constituent power and instituted a new fundamental legal order completely superseding the previous one. The system now in force has not suspended the 1853 Constitution: purporting to be permanent, it has destroyed that Constitution. Formally, therefore, in pure theory constitutional normality is that which conforms to the new fundamental law.

The pyramid of constitutional order in Argentina has now undergone a structural change: at the apex there are the aims set forth in the Act of the Revolution and the Appendix thereto; immediately below is the Statute of the Argentine Revolution and, in third place, the law nominally designated as the Constitution of the Argentine Nation. Thus the constituent power, i.e. the junta, has itself limited its political and legal powers. The President of the Nation, a power established by the supreme law, has sworn faithfully to observe the Aims of the Revolution, the Statute of the Revolution and the Constitution of the Argentine Nation. The only other power within the State — following the merging into one authority of the Legislature and

the Executive — the Judiciary, embodied in the Supreme Court, has sworn to abide only by the Statute and the Constitution. It, too, is a power established by the supreme law. The revolutionary junta exercised constituent power; after so doing, the reasons for its existence came to an end and it disappeared. The present government of General Onganía came into existence after the constituent act but each component of the late junta is now structurally subordinate to the President of the Nation, who also acts as Commander-in-Chief of the three branches of the armed forces. In the event of the death or incapacity of the President the three Commanders-in-Chief will appoint his successor. They will do so, however, in their military capacity and not as a junta, which no longer exists.

The new system in Argentina is established by fundamental laws rather than by a Constitution in the traditional meaning of the term. Contrary to the tradition of the country, the new system establishes a unitary form of government, the provincial governors being appointed — and no longer elected — by the Executive Power (Article 9 of the Statute). This derogates from all those articles of the Constitution which refer to the federal system and to the powers of the provinces.⁵ The governors are subject to Articles 3 and 5 of the Statute; the provincial constitutions are amended to the extent that legislative power, as in the case of the national Government, rests with the governors.

The Judiciary, renewed to the extent required by political necessity, retains its constitutional position. Articles 98 and 100 of the Constitution have, however, been amended in that the fundamental law now consists of the Statute and the Constitution, to the extent that the latter has been retained by the junta. The Supreme Court, therefore, cannot apply provisions of the Constitution which conflict with the Statute because to do so would violate the fundamental law.

The principle of classical political representation has been left out of the Argentine institutional system. The people can participate in the legislative process only to the extent to which the President avails himself of the power vested in him to convene, for the purpose of securing their advice, bodies which

⁵ The term "province", as used in Argentina, is equivalent to "state of the federation".

are to be created as being representative of sections of the community. The Executive, which has been given legislative power and the title of President of the Republic, consists of General Onganía, whose term of office is therefore for life. No body within the present system can depose him.

The cornerstones of the genuine Rule of Law in a state are the separation, balance and renewal of powers since, by implying a limitation on the powers of those in authority, they guarantee respect for human rights; these principles have, however, been abandoned in the new order which has been established.

Guatemala: the Restoration of the Constitutional Regime

On March 31, 1963, General Miguel Ydigoras Fuentes, President of Guatemala, was deposed by the army. For three years the country was governed by a military junta, which brought into force the "Fundamental Charter of Government", thus abrogating the 1956 Constitution. This Charter did away, *inter alia*, with municipal autonomy. The remedy of *amparo*, not being mentioned in the Charter, ceased to be guaranteed, and the Courts, no longer able to provide the protection ensured by the *amparo* remedy, could not prevent or limit the excesses committed by the military authorities in their political persecution. Government was by legislative decree, and legislation of a severely repressive character was introduced.

The jurisdiction of military tribunals was extended to embrace those offences which they themselves qualified as political. With all these repressive powers available to the authorities, steps were taken to have a Constitution drawn up by a Constituent Assembly composed of members elected through the procedure of a single list of candidates, a public vote and secret ballot. The elections of May 24, 1964, were among the most violently criticised in the political history of the country.

The Constituent Assembly, described as spurious by the Opposition, drew up a draft Constitution which contained notoriously defective provisions relating to legislative procedures, and was rich in casuistic provisions aimed at causing difficulties for the Opposition and at avoiding the structural changes that were indispensable in a society which had begun to show unmistakable signs of social unrest in the face of the ineffectiveness

of its various governments. On September 15, 1965, the new Constitution was promulgated, its entry into force being suspended until May 5, 1966, i.e., two months after the date fixed for elections. The final phase of the return to constitutionality was the calling of general elections for the offices of President and Vice-President of the Republic, members of Congress and municipal corporations. These elections were held on March 6, 1966.

In the electoral contest for President of the Republic, the only civilian among the three candidates was successful, Julio César Mendez Montenegro of the Revolutionary Party. In an atmosphere of tension, violence and uncertainty, the results of the elections were strongly in favour of the former Dean of the Faculty of Law of the University of San Carlos. It should be pointed out that fear of popular reaction against fraudulent elections in a country sorely tried by a campaign of kidnappings and terrorist activity made it possible to respect the results, which were contrary to the aims of the authorities in power. An Opposition candidate successful at the polls is a rather exceptional occurrence in this country.

Since, however, none of the candidates secured an absolute majority, the task of designating the President devolved upon the elected Legislative Assembly. Even though that Assembly included a majority of Revolutionary Party deputies, 30 out of 53, the political conditions which had previously obtained gave rise to fears that pressure would be brought to bear in an attempt to swing the nomination away from the candidate of the majority party. The elected Assembly, which entered upon its period of office on May 5, 1966, however, designated as President-Elect, Mr. Mendez Montenegro, who, as his first act upon assuming the functions of his office on July 1, 1966, lifted the state of emergency and restored the constitutional guarantees which had been suspended since May 10, 1966. In his inaugural address the President called for concord and for a dialogue between the various parties, basing himself on his strong moral position following his election. The personality, training and career of the former Dean of the Faculty of Law of the University of San Carlos all combined to indicate that the new government would aim at liberalism and concord, an impression which has so far not been gainsaid by the gestures it has made in favour of political opponents.

This positive note of a return to constitutionality and of respect for the will of the people expressed through the ballot-box is a fitting ending to the present study, which endeavours to do no more than highlight some aspects of the complex daily struggle for the establishment of the genuine Rule of Law in Latin America.

SOUTH AFRICA AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

EDITOR'S NOTE: *The following analysis of the systematic violation of the provisions of the Universal Declaration of Human Rights by South African legislation was presented to the U.N. Seminar on Apartheid, held in Brasilia in August-September 1966, by the Secretary-General of the Commission, Mr. Seán MacBride. It is being published in the Bulletin because it can be considered as a statement of the Commission's position — on the basis of the example provided by South Africa — in relation to apartheid and racial discrimination.*

The Rule of Law does not consist merely in the efficient and correct enforcement of the law irrespective of its content. It also and primarily involves a concept of the purpose of organised society and of the fundamental principles which should govern the content of law in such a society. As understood by the International Commission of Jurists, the Rule of Law requires an ordered legal and constitutional framework which will permit the full development of the individual by ensuring for him the rights and freedoms set out in the Universal Declaration of Human Rights, and it is by examining South African legislation and practice with reference to the different articles of the Universal Declaration that one can best see the extent to which apartheid as practised in South Africa is inconsistent with the Rule of Law.

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 discrimination of any kind, such as race, colour, etc."*

These fundamental, underlying provisions of the Universal Declaration are not even accepted by the South African Gov-

ernment, and of course the whole concept and system of apartheid are in direct and express contradiction to the principle embodied in them. The system of racial classification embodied in the Population Registration Act of 1950, the provision of separate and not necessarily equal facilities for the different races under the Reservation of Separate Amenities Act of 1953 are but two examples of a system that is based upon the abhorrent concept that men of different races are not equal in value and potential. There is no claim even that the doctrine of "separate but equal" is applied. South Africa does not attempt to deny that its system is one of "separate because not equal".

An examination of the subsequent articles of the Universal Declaration will show the extent to which the introduction and maintenance of a system which violates the fundamental ideal of equality and non-discrimination has inexorably led to an eroding of the other rights and freedoms embodied in it, not only for the discriminated against but for the discriminators also. In the words of an observer who went to South Africa on behalf of the International Commission of Jurists in 1960: "If the recently introduced measures are continued and the proposed legislation on censorship and on the Bar is put on the Statute Book, the twelve years of Nationalist rule will have finally deprived all non-whites of almost all the human rights and fundamental freedoms set out in the United Nations Universal Declaration of Human Rights; and the whites of South Africa will have suffered a grievous impairment of those same rights and freedoms. South Africa will then be a police state." Those words have come only too true.

Article 3. *"Everyone has the right to life, liberty and security of person."*

The provisions introduced by the South African Government authorizing deprivation of liberty without trial are numerous. They are:

1. Proclamation 400 authorizing arrest and detention for questioning for an indefinite period in the Transkei. This is not an emergency provision but part of the permanent law for that region.
2. 90-days detention, now abolished, though capable of re-introduction.
3. 180-days detention under the Criminal Procedure Amendment Act of 1965.

4. Banishment of Africans under the Native Administration Act of 1927.
5. Detention of a prisoner after completion of his sentence under the "Sobukwe" clause of the General Law Amendment Act, 1963.
6. House arrest under the General Law Amendment Act, 1962.

These very wide powers introduce a permanent element of insecurity into life in South Africa. Security of the person is further diminished for both white and non-white by the constant possibility that banning orders will be imposed, and for non-white by the operation of the pass-laws and the system by which Africans are allowed into white areas on sufferance only and are at any time liable to be endorsed out. They are in constant danger both of arrest and imprisonment for a technical breach of the pass laws and of removal from their home and their job.

Article 5. *"No-one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."*

On the issue of torture, the growing body of evidence that the South African security forces resort to such practices will not be set out in detail; it is sufficient to draw attention to the fact that between 1960 and 1963 — before even the allegations of torture became wide-spread — 103 white and 74 non-white prison officers and 97 white and 80 non-white police officers were convicted of irregular treatment of prison inmates: a total of 354.

Solitary confinement as practised in respect of 90 and 180 days detainees in particular is a clear instance of cruel and inhuman treatment, which has had deleterious effects on detainees in a considerable number of cases. The discrimination between different prisoners of different races and the automatic classification of political prisoners in Category D are other instances.

Article 6. *"Everyone has the right to recognition everywhere as a person before the law."*

It is hard to contend that Africans are recognized as persons, at any rate outside their reserves, and one can well ask to what extent the coloured and Indian inhabitants are accepted as persons in the full sense.

Article 7. *"All are equal before the law and are entitled without any discrimination to equal protection of the law."*

The Population Registration Act perpetuates a system under which all are most emphatically not equal before the law.

Equal protection of the law often appears to be not available in practice, when one reads of the different sentences imposed on whites and Africans in respect of offences against members of the other race. It is also denied in law by, for example, the Natives (Prohibition of Interdicts) Act of 1956 which takes away from Africans threatened with forcible removal the right to apply to the courts for an interdict restraining illegal removal.

Article 8. *"Everyone has the right to an effective remedy . . . for acts violating the fundamental rights granted him by the Constitution or by law."*

The Natives (Prohibition of Interdicts) Act just referred to denies Africans a remedy in the courts against the execution of an unlawful banishment order.

The jurisdiction of the courts is excluded in cases of detention under the 90 days and 180 days laws.

There is no legal remedy against listing as a Communist or the imposition of house arrest or bans.

Article 9. *"No-one shall be subjected to arbitrary arrest, detention or exile."*

Arbitrary arrest of Africans under the pass laws is a common practice.

Arbitrary detention with no means of recourse to the courts and with no statement of reasons other than in the most general terms is practised under the 90 and 180 days laws and the other provisions listed in connection with Article 3.

"Idle and undesirable" Africans can be arrested without a warrant and, if unable to give a good and satisfactory account of themselves, are liable to be detained for up to two years in a farm colony or other institution approved under the Prisons Act: Native Laws Amendment Act, 1952.

Exile is becoming the common fate of South Africans now, faced with the choice between house arrest or leaving the country on an exit permit.

Article 10. *"Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination . . . of any criminal charge against him."*

Although in principle the courts in South Africa sit in public, there have been frequent cases — especially in the series of trials in the Eastern Cape — of courts being closed to the public for the whole or part of a trial.

There are many measures which in effect amount to condemnation without trial : the imposing of banning orders, banishment of Africans, house arrest, listing as a Communist.

Inroads into the normal system of criminal justice are made by the General Law Amendment Act of 1962, so that in political cases some of the provisions designed to ensure a fair trial are liable to be suspended. In the first place, the Minister of Justice can direct trial without a jury. Secondly, the Attorney-General can order summary trial, thus depriving the accused of the opportunity, in the course of the preliminary examination, of knowing the case he has to meet.

Article 11 (1). *"Everyone charged with a penal offence has the right to be presumed innocent."*

A very wide range of acts are capable of amounting to sabotage under the Sabotage Act of 1962. Once the accused has been shown to have committed an act capable of amounting to sabotage, he will be found guilty unless he can prove that the commission of the act was not calculated to produce any one of a large number of effects. As was said in *Bulletin No. 14* (at page 33), "the procedural effect here is to shift the burden of proof to the accused, who will be convicted unless he can prove his innocence. Normally in a civilised jurisprudence an accused man is innocent until proved guilty by the prosecution."

Article 11 (2). *"No-one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence ... at the time when it was committed."*

Two offences are created retrospectively by the General Law Amendment Act of 1963. By Section 5 it is made an offence punishable with death or imprisonment for not less than five years to undergo military training outside the Republic. This offence was made retrospective by inserting the section into an Act of 1950 (The Suppression of Communism Act), and considerable numbers of Africans who had undergone training

abroad before 1963 have been convicted and sentenced in terms of this new provision.

By section 14, the Government is given power to declare organizations unlawful as from April 8, 1960 — three years before the Act. Membership of or activities on behalf of any such organization thus become retrospectively unlawful as from the date inserted in the declaration that the organization is unlawful.

Article 12. *"No-one shall be subjected to arbitrary interference with his privacy, family, home or correspondence."*

The effects upon African family life of the regulations controlling African residence in white areas are too well-known to need describing. An African only has the right to live with his wife and family in the reserve which is his national home — and then only if his wife and children also have the right to live in that reserve which may not be the case. The recent introduction of a restriction permitting only one African servant to live on the premises of a white employer has led to further forced separation of African couples.

By the Group Areas Act, 1957, an inspector may enter a person's home in a white group area at any time of the day or night to ascertain whether a non-white is occupying the premises.

By the General Law Amendment Act of 1963, the Postmaster can detain and confiscate letters, parcels and telegrams if he reasonably suspects them to be concerned with any offence: there is no need for a judicial order.

Article 13 (1). *"Everyone has the right to freedom of movement and residence within the borders of each state."*

The whole system established by the Group Areas Act and the various laws culminating in the Bantu Laws Amendment Act 1964 denies this fundamental right to the inhabitants of South Africa and more particularly to the non-white population. This aspect of apartheid has received particular attention from the International Commission of Jurists. In its South Africa Report of 1960, the Commission comments: "The movement and residence of the African labour force is regulated to meet the industrial and agricultural requirements of the European."

"An objective analysis of the presently existing restrictions of movement can only bring forth the conclusion that the Government has for the purpose of allocation of labour between industry and agriculture erected a careful system of discriminatory legislation. This legislation does not seem or even pretend to protect, but only restricts, the African, and is cleverly designed to complement equally discriminatory restriction of residence."

An analysis of the situation after the enactment of the Bantu Laws Amendment Act of 1964 (in *Bulletin* No. 22) led the Commission to the conclusion that :

"The legal powers vested in the Government and local authorities for complete separation of residence now seem to be complete. They can take steps whenever they deem it desirable to remove an unwanted Bantu from an urban area, to restrict severely the number of Bantu residents on white farms, and to secure their removal from those areas in the white farmlands where their presence may disturb white residents."

Article 13 (2). "*Everyone has the right to leave any country, including his own, and to return to his country.*"

South Africans have no right to leave their country ; it is an offence to leave the country without a permit under the Departure from the Union Regulation Act. Applications for passports are frequently refused — for example to Africans seeking to take up scholarships for study abroad, or to attend meetings of the UN.

Others — opponents of apartheid — are denied the right to return to their country, and are only allowed to leave on condition that they do so on an exit permit under which they must leave for good.

Article 16. "*Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family.*"

Under the Prohibition of Mixed Marriages Act, 1949, marriages between whites and non-whites are illegal. Partners to mixed marriages entered into before that date become guilty of an offence against the Immorality Acts if they continue to cohabit.

The difficulties placed in the way of Africans leading a normal family life if they leave their reserves have already been indicated.

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."*

It is sufficient to mention the prohibition on the acquisition of land by non-Europeans in the European areas covering 87 % of the territory of South Africa. Not even on trust or tribal land can Africans acquire freehold rights. Severe restrictions also apply to Indians and coloureds.

Arbitrary deprivation of property for the implementation of the Group Areas Acts is a continuing feature of the implementation of apartheid. A recent example is the declaration of District 6 in Capetown as a white area, with the consequent expropriation and removal of thousands of Cape Coloureds.

Article 18. *"Everyone has the right to freedom of thought, conscience and religion."*

Under the Native (Urban Areas) Act of 1945, as amended, the Minister of Bantu Administration and Development may prohibit the attendance of Africans at a church in a town if he considers their attendance undesirable, and may thus force apartheid upon churches.

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."*

South African law effectively prevents the expression of any opinion advocating the end of apartheid in any real sense. In particular, the expression of any views amounting to "Communism" as defined by the Suppression of Communism Act is prohibited.

Newspapers can be banned under Section 6 of the Suppression of Communism Act as amended in 1963.

Banning orders may be imposed prohibiting the banned person from writing or publishing any material.

It is a criminal offence to publish the words of a banned person. As is commented in *Bulletin* No. 14, "certainly the

fact remains that this section silences in an underhand way open critics of the regime”.

The situation is well summarized in *Bulletin No. 8* :

“Burning problems exist in South Africa. Differences of opinion naturally follow, but only certain groups of the population are permitted to hold and to express their views. The overwhelming majority, the so-called blacks and coloureds, are not allowed to have or to hold any political views. To express a view contrary to the ruling minority of the privileged race may constitute a crime for which heavy penalty may be paid. The law does not provide a way in which a different opinion can be registered. It cannot be expressed outside of Parliament because that would constitute treason. Nor can it be voiced inside Parliament, because the people who are likely to hold a different opinion have no direct representation in Parliament. The law does not afford equal protection. There appears to be one law for the whites and another for the non-whites.”

Finally, the Publications and Entertainments Act of 1963 introduces wide powers of censorship, in addition to the censorship that was already practised on imported materials under the Customs Act.

Article 20. *“Everyone has the right to freedom of peaceful assembly and association.”*

Freedom of association is severely restricted by the Suppression of Communism Act and the Unlawful Organizations Act. Africans are now effectively prevented from organizing politically. In addition, the Liberal Party has been seriously harrassed, in particular by the banning of its leaders and their arrest under the 180 days law. Steps are even being taken to prevent coloured people from participating in the work of and supporting the Progressive Party.

As far as freedom of assembly is concerned, numerous restrictions exist, in particular under the above-mentioned Acts and the Riotous Assemblies Act. Under a Government Notice of 1953 meetings of more than 10 Africans are prohibited without the permission of the Minister for Native Affairs. Under the General Law Amendment Act of 1963, the Minister is given power to prohibit meetings if it is necessary to combat the achievement of any of the objects of Communism. Under the Natives (Urban Areas) Act 1945, as amended, the Minister may prohibit social gatherings at private houses if Africans are

to be present. There are further extensive powers to prohibit mixed gatherings or associations in the fields of education, culture, sport and entertainment.

Further, individuals may be prevented from attending gatherings of any kind — whether political, social or educational — by means of banning orders.

Article 21. *"Everyone has the right to take part in the government of his country."*

This right is stated to include right of equal access to the public service and to periodic elections by universal and equal suffrage.

As is well-known, Africans have no vote save in the Transkei for the Transkei Assembly. The coloureds have a limited right of indirect representation, which is shortly to be even more restricted. Only whites can be elected to Parliament, and all the upper echelons of the public service are open to whites only.

As to the Government's answer that Africans are to be given political rights in the Bantustans, the Report on South Africa and the Rule of Law of 1960 commented :

"What the Bantustan plan does is to remove finally all existing political rights based on parliamentary representation, however disproportionate and inadequate they may have been, and to offer nebulous promises for the future in their stead."

Article 23 (1). *"Everyone has the right to work, to free choice of employment..."*

The Native Labour Regulation Act and subsequent legislation culminating in the Bantu Laws Amendment Act of 1963 provide the machinery of job reservation under which the Minister of Bantu Administration is able to prescribe classes of work in which Africans may not engage, so that whole sectors of the economy are closed to Africans — and indeed to other non-whites — and to fix the maximum number of Africans who may work in particular classes of employment in particular areas.

Even in the fields of employment which are open to Africans, they can only seek employment through labour bureaux and only retain their employment so long as the labour bureau authorises them to do so.

Banning orders — affecting individuals of every race — frequently have the effect of preventing the person affected from

continuing in the employment of his choice because it is inconsistent with the bans.

Article 23 (2). *"Everyone, without any discrimination, has the right to equal pay for equal work."*

This is, of course, not so in South Africa, where members of different races are paid at different rates for the same work where they are allowed to do it.

Article 23 (4). *"Everyone has the right to form and join trade unions for the protection of his interests."*

Only white trade unions — or mixed unions existing prior to 1959 provided they establish separate branches for different races and all their elected officers are white — are eligible for registration under the Industrial Conciliation Acts, 1956 and 1959. Only registered trade unions can take part in collective bargaining under the mediation and conciliation machinery set up by those Acts.

Separate machinery for the settlement of African labour disputes is established by the Native Labour (Settlement of Disputes) Act of 1953, which prohibits African labour from striking and provides machinery controlled by the State and mainly in white hands, in which trade unions play no part. Thus while African trade unions are not expressly prohibited, they are not recognized or allowed to play any role in the protection of their members.

The Minister of Labour has explained this policy as follows :

"If that machinery " — i.e. that set up by the 1953 Act — "is effective and successful, the natives will have no interest in trade unions, and native trade unions will probably die a natural death."

Article 25. *"Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family."*

Neither in the reserves nor in the white areas can it be said that the African population as a whole enjoys an adequate standard of living.

As to the 13 % of land reserved for the Africans, the South African Institute of Race Relations has calculated that even

if properly planned it could only support about 30 % of its total population.

As to Africans in white areas, the same body estimated that in 1957 about 87 % of the African families in Johannesburg were living below subsistence level.

Article 26 (1). *"Everyone has the right to education... Elementary education shall be compulsory..."*

(2). *"Education shall be directed to the full development of the human personality and to the strengthening of the respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups..."*

(3). *"Parents have a prior right to choose the kind of education that shall be given to their children."*

The object of Bantu education, which under the Bantu Education Acts is under stringent government control, has been described by Dr. Verwoerd as follows :

"Education must train and teach people in accordance with their opportunities in life, according to the sphere in which they live... It is therefore necessary that native education should be controlled in such a way that it should accord with the policy of the State."

Commenting on this system of education in its Report of 1960, the Commission said :

"It is apparent that this provision deprives parents of the essential right to choose freely the kind of education to be given to their children. Further, the introduction into Bantu education of different syllabuses which place greater emphasis upon manual training may be consistent with the Government's economic policy but certainly deprives the African of full educational opportunity and development."

While Bantu education thus deprives African children of a free choice of educational opportunities, all forms of education in South Africa are probably inconsistent with the requirement of the Declaration that education should promote understanding, tolerance and friendship among all racial groups.

The Extension of University Education Act of 1959 applies the principle of separate education to universities, with African universities under strict control of the Minister of Bantu Education.

Article 27. *"Everyone has the right freely to participate in the cultural life of the community."*

After withdrawing grants for all cultural activities catering for both whites and non-whites, the Nationalist Government of South Africa took a series of measures closing mixed entertainments and social activities. Most recently, at the end of 1964, it made permits necessary for the holding of mixed entertainments of social, cultural or sporting events.

In effect, South Africans are only allowed to attend cultural events open to members of their own racial group.

Conclusions

This list of violations by South African legislation of almost all the articles of the Universal Declaration of Human Rights demonstrates unanswerably that apartheid, both in principle and in practice, leads inevitably to the erosion, one after the other, of the elements of the Rule of Law. An unjust and discriminatory social order arouses opposition; sterner and even sterner measures are taken to deal with the opposition and maintain by force the social order that has aroused it. Thus the policy of apartheid has resulted inexorably in steadily increasing limitations on all the principal fundamental rights and freedoms, not only those which are necessarily inconsistent with that policy in itself.

It is thus not surprising that the International Commission of Jurists — dedicated as it is to the preservation of those rights and freedoms — has had to devote so much of its attention to South Africa — probably more than to any other single country. Analysis, denunciation and dissemination of the measures which — designed to implement the policy of apartheid and to crush opposition to it — infringe the principles of the Rule of Law is not, however, enough. The International Commission of Jurists is anxious to make a positive contribution to the pressures being exerted and steps being taken to prevent further erosion of human rights in South Africa and indeed to reverse the process.

As an association of lawyers, the Commission is particularly concerned to give assistance and support to members of the legal profession in South Africa in their courageous and unrewarding defence of the individual victim of apartheid policies, and in

the exposed position in which they find themselves, threatened as they have been for some time with governmental interferences with their professional freedom.

On the international level, the Commission already has regular and fruitful contacts with the Secretariat of the United Nations Committee on Apartheid, and co-operates with the United Nations to the fullest extent of its capacities in any field in which it is felt that non-governmental action can be of more value than governmental intervention.

ICJ NEWS

SPECIAL STUDIES

The Secretariat has just published a handbook with the title "The Rule of Law and Human Rights", which contains a systematic compendium of the principles and basic elements of the Rule of Law as they have been laid down in the conclusions of the congresses and conferences held under the auspices of the Commission. It also contains cross-references to the various international texts and conventions relating to human rights and a comprehensive index.

The Secretariat has started work on a comparative study on "Preventive Detention in the World", covering its extent and the relevant legislation in the different countries where it exists. A detailed questionnaire has been sent to every government in the world, and a considerable number of replies have already been received. This study, which is inevitably a long-term project and which is being conducted with complete objectivity as a piece of strictly legal research, is designed to achieve a comprehensive picture of the legal aspects of the subject. Another special study on "The Status of the Universal Declaration of Human Rights in International Law" has nearly been completed and will be published shortly.

LIBERIA

Many readers will remember that in May 1961, as a result of a contribution that he had presented to the Lagos Conference which criticised certain aspects of judicial practice in Liberia, Mr. C. A. Cassell, Counsellor-at-Law at the Liberian Bar, was charged with contempt of court and disbarred by a judgment of the Supreme Court. At the time, the Commission was extremely disturbed by this decision, which challenged the individual's right to freedom of expression. In any event, the charge did not appear to be well-founded, for Mr. Cassell's criticisms were by no means aimed at attacking, belittling or degrading the judiciary or the administration of justice of his country. Mr. Cassell's object was to formulate constructive criticism with a view to opening up possibilities of improvement in certain fields; this was, of course, one of the aims of the Lagos Conference.

The Commission was very glad indeed to learn that, on the application of Mr. Cassell, the Supreme Court on July 1, 1966, restored him to the office of Counsellor-at-Law with all the rights and privileges attaching to that office. In his application, Mr. Cassell reiterated his original affirmation that he had absolutely no intention of committing any act of contempt or of belittling the judiciary of his country. He added, as a gesture of the respect that is owed by every citizen to the supreme judicial organ of his country, that if, in spite of his good

NEWS

faith and his good intentions, his statements appeared and were felt to be offensive to the Court, he expressed his deep regrets. This very proper decision of the Supreme Court of Liberia is a satisfactory conclusion to what became known as "The Cassell Case".

IRAN

Following upon the article on political trials in Iran in *Bulletin* No. 26, the Secretariat received a visit from the Secretary-General of the Association of Iranian Jurists, Mr. Parviz Kazemi, who submitted a memorandum to the Commission in which the Association of Iranian Jurists commented critically upon the *Bulletin* article and presented their interpretation of the background against which military courts function in Iran. Mr. Kazemi and the Secretary-General of the Commission, Mr. MacBride, discussed the situation in Iran and possible initiatives that might be taken in the legal field there.

INTERNATIONAL CO-OPERATION

The Secretary-General, Mr. MacBride, attended the following meetings: the Conference of the International Law Association in Helsinki (Finland) in August 1966; the Annual Conference of the International Peace Bureau at Strasbourg (France) in August, 1966; the international seminar organized by the United Nations Special Committee on Apartheid at Brasilia in August, 1966; the Annual Assembly of Amnesty International at Copenhagen (Denmark) in September, 1966; and the 20th General Assembly of the World Federation of United Nations Associations at Nice (France) in October, 1966.

The Commission was also represented at the General Assembly of the World Jewish Congress in Brussels by Mr. L. G. Weeramantry, Senior Legal Officer, in August, 1966; at the Seminar on Human Rights held by the West German United Nations Association in West Berlin in October, 1966, by Dr. V. M. Kabes, the Executive Secretary; at the international seminar on the participation of women in public life in Rome in October 1966 by Mrs. L. Ceribelli, Mrs. L. Ceccarelli and Mrs. M. T. Giaratana, members of the Italian Section; and at the United Nations seminar on Measures for the Advancement of Women held at Manila (Philippines) in December, 1966, by Mrs. Milagros A. German, judge of the Balanga Court of Agrarian Relations.

In connection with the World Campaign for Human Rights, the Standing Committee of Non-Governmental Organisations for International Year for Human Rights, which is presided over by Mr. MacBride, has held two working meetings, in September and October, 1966.

NATIONAL SECTIONS

The *Malaysian Section* at its last general meeting re-elected its officers and committee as follows: Chairman: J. S. H. Skrine; Vice-Chairman: K. L. Devaser; Secretary: C. Selvarajah; Treasurer: Hussein bin Onn; Committee Members: Senator Dato Athi Nahappan, H. B. Ball, Peter Mooney, Kamarul Ariffin, K. A. Menon, Choon Mun Sou, R. T. S. Khoo, G. K. M. Mohan.

The *Norwegian Section* has elected Mr. J. B. Hjort as President.

The *British Section, Justice*, held a joint meeting with the *German Section* on October 7-9, 1966, in London, at which representatives of the *French Section* were also present. The subjects discussed were "The Structure of Companies" and "The Power to Prosecute". The President of the German Federal Constitutional Court attended the meeting.

The *Austrian Section* organised an important international colloquium in Vienna from November 23 to 25, 1966, to which representatives of other European National Sections were invited together with eminent jurists from a number of East European countries, who attended in their personal capacity. A detailed account of this meeting will be given in the next issue of the *Bulletin*.

The International Commission of Jurists is a non-governmental organization which has Consultative Status with the United Nations and UNESCO. The Commission seeks to foster understanding of and respect for the Rule of Law. The Members of the Commission are:

JOSEPH T. THORSON	Former President of the Exchequer Court of Canada
VIVIAN BOSE (Honorary Presidents)	Former Judge of the Supreme Court of India
T. S. FERNANDO (President)	Judge of the Supreme Court of Ceylon; former Attorney-General and former Solicitor-General of Ceylon
A. J. M. VAN DAL	Attorney-at-law of the Supreme Court of the Netherlands
OSVALDO ILLANES BENITEZ	Chief Justice of the Supreme Court of Chile
KENZO TAKAYANAGI	Chairman, Cabinet Commission on the Constitution;
(Vice-Presidents)	Professor Emeritus, Tokyo University; Member, Legislative Council of Japan
Sir ADETOKUNBO A. ADEMOLA	Chief Justice of Nigeria
ARTURO A. ALAFRIZ	Attorney-at-law; Professor of Law; former Solicitor-General of the Philippines
GIUSEPPE BETTIOI	Member of the Italian Parliament; Professor of Law at the University of Padua
DUDLEY B. BONSAI	United States District Judge of the Southern District of New York; past President of the Association of the Bar of the City of New York
PHILIPPE N. BOULOS	Deputy Prime Minister, Government of Lebanon; former Governor of Beirut; former Minister of Justice
U CHAN HTOON	Former Judge of the Supreme Court of the Union of Burma
ELI WHITNEY DEBEVOISE	Attorney-at-law, New York; former General Counsel, Office of the USA High Commissioner for Germany
MANUEL G. ESCOBEDO	Professor of Law, University of Mexico; Attorney-at-Law; former President of the Barra Mexicana
PER T. FEDERSPIEL	Attorney-at-Law, Copenhagen; Member of the Danish Parliament; former President of the Consultative Assembly of the Council of Europe
ISAAC FORSTER	Judge of the International Court of Justice, the Hague; former Chief Justice of the Supreme Court of the Republic of Senegal
FERNANDO FOURNIER	Attorney-at-Law; President of the Inter-American Bar Association; Professor of Law; former Ambassador to the United States and to the Organization of American States
HANS-HEINRICH JESCHECK	Professor of Law; Director of the Institute of Comparative and International Penal Law of the University of Freiburg
RENÉ MAYER	Former Minister of Justice; former Prime Minister of France
Sir LESLIE MUNRO	Former Secretary-General of the International Commission of Jurists; former President of the General Assembly of the United Nations; former Ambassador of New Zealand to the United Nations and United States
JOSÉ T. NABUCO	Member of the Bar of Rio de Janeiro, Brazil
LUIS NEGRON-FERNANDEZ	Chief Justice of the Supreme Court of Puerto Rico
PAUL-MAURICE ORBAN	Professor of Law at the University of Ghent, Belgium; former Minister; former Senator
STEFAN OSUSKY	Former Minister of Czechoslovakia to Great Britain and France; former Member of the Czechoslovak Government
MOHAMED A. ABU RANNAT	Former Chief Justice of the Sudan
EDWARD ST. JOHN	Q.C., Barrister-at-law, Sydney, Australia
THE RT. HON. LORD SHAWCROSS	Former Attorney-General of England
SEBASTIAN SOLER	Attorney-at-law; Professor of Law; former Attorney-General of Argentina
PURSHOTTAM TRIKAMDAS	Senior Advocate of the Supreme Court of India; sometime Secretary to Mahatma Gandhi
H. B. TYABJI	Barrister-at-Law, Karachi, Pakistan; former Judge of the Chief Court of the Sind
TERJE WOLD	Chief Justice of the Supreme Court of Norway

Secretary-General: SEAN MACBRIDE S.C.,
Former Minister of Foreign Affairs of Ireland

Executive Secretary: VLADIMIR M. KABES
LL.D., M.C.L.

ARE YOU A SUBSCRIBER TO THE JOURNAL?

If not, subscribe *now* or take out a combined subscription for *all* our publications.

The JOURNAL is published twice a year and contains articles on international and comparative aspects of the Rule of Law and Human Rights, as well as a Digest of Judicial Decisions of the superior courts of the major countries of the world on these topics. It is published in four language editions: English, French, German, Spanish.

The last issue (Vol. VII, No. 1) contained articles on the Results in the Legal Field of the XXth International Conference of the Red Cross; Two Aspects of Pre-trial Procedure in Eastern Europe; the Domestic Status of the European Convention on Human Rights; the Swiss Federal Court as a Constitutional Court of Justice, as well as the Digest of Cases.

The next issue (Vol. VII, No. 2) will contain articles on the European Social Charter; Kidnapping under International Law; the Judgment of the International Court in the South-West Africa case; the Supreme of Chile; a list of Books of Interest and the Digest of Cases.

<i>Subscription rates per year</i>	<i>US\$</i>	<i>Sterling</i>
<i>Journal</i> (two issues)	3.00	£1. 1.6
<i>Bulletin</i> (four issues)	3.00	£1. 1.6

Combined subscription

including also such other special publications of general interest, if any, as may be published in the current subscription year.

5.00 £1.15.9

Package deal

This special offer includes a combined subscription for one year as above, plus copies of all earlier publications not yet out of print

10.00 £3.15.0

All rates are inclusive of surface mail postage.
Airmail rates supplied on request.

PLEASE USE THE ENCLOSED SUBSCRIPTION FORM

Published in English, French, German and Spanish
and distributed by

INTERNATIONAL COMMISSION OF JURISTS
2, QUAI DU CHEVAL-BLANC, GENEVA, SWITZERLAND

HENRI STUDER S.A., PRINTERS, GENEVA, SWITZERLAND