

FOR THE RULE  
OF LAW

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

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**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.

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## A U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS

### A call for support

*It is seldom that individuals and non-governmental organisations can take action capable of yielding results internationally. Such an opportunity presents itself right now. Enlist your Government's support for the proposal to establish a U.N. High Commissioner for Human Rights which was adopted by the U.N. Commission on Human Rights on March 22, 1967. To become effective this proposal must now be adopted by ECOSOC and finally by the General Assembly. Do not leave it to chance, contact your Government to ensure their active support for the proposal.*

1968 has been designated International Year for Human Rights by the General Assembly of the United Nations ; 20 years have passed since the General Assembly adopted the Universal Declaration of Human Rights. Such an occasion is vitally important, for the meaning and intent of the Universal Declaration are in serious danger of being overlooked.

Despite the massive infringements of human rights and the brutality which disgraces our era, the Universal Declaration must not be cynically relegated as an irrelevant historical document that has no validity to the facts of the world of today. The spirit which gave birth to the United Nations and the Universal Declaration must be recaptured. It will need dedication and a crusading spirit to get back to the first principles which the world has been called upon to celebrate next year. What were these :

#### **“ We, the peoples of the United Nations, Determined**

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and  
to reaffirm faith in fundamental human rights... and  
to promote social progress and better standards of life in larger freedom,

#### **And for These Ends**

to practise tolerance and live together in peace...

to unite our strength to maintain international peace and security,  
and  
to ensure, by the acceptance of principles and the institution of  
methods, that armed force shall not be used, save in the common  
interest, and  
to employ international machinery for the promotion of the  
economic and social advancement of all peoples,

**Have resolved to combine our efforts to accomplish these aims."**

(Preamble to the Charter of the United Nations.)

The recognition, promotion and protection of human rights are among the reasons for the existence of the United Nations. Human rights are of the very substance of the work of the Organisation and its family of organisations. Various articles of the Charter make it clear that it is the duty of the United Nations to promote universal respect for and observance of human rights, and to achieve international co-operation in this field.

At the recent meeting of the United Nations Commission on Human Rights, held in Geneva in February-March 1967, a resolution proposing the appointment of a United Nations High Commissioner for Human Rights was adopted. This resolution *must now be debated and voted upon by the Economic and Social Council* and, if adopted by that body, will come before the General Assembly for final approval.

The resolution proposes that the General Assembly shall establish a United Nations High Commissioner for Human Rights with the degree of independence and prestige required for the performance of his functions under the authority of the General Assembly. He is to be appointed by the General Assembly, on the recommendation of the Secretary-General, for a term of five years. He will be advised and assisted by a panel of not more than seven expert consultants, who will be appointed by the Secretary-General in consultation with the High Commissioner himself, having regard to the equitable representation of the principal legal systems and of geographical regions.

By the terms of the resolution, the High Commissioner will have four distinct functions :

- 1) He may, if requested to do so, give advice and assistance to any of the organs of the United Nations or its specialised agencies which are concerned with human rights, and is required to maintain close relations with them.

2) He may, if requested to do so, render assistance and services to any member state and, with the consent of the state concerned, he may submit a report on such assistance and services.

3) He will have access to communications concerning human rights addressed to the United Nations. Whenever he deems it appropriate, he may bring such a communication to the attention of the government to which it refers.

4) Finally, he is required to "report to the General Assembly through the Economic and Social Council on developments in the field of human rights including his observations on the implementation of the relevant declarations and instruments adopted by the United Nations and the specialized agencies, and on his evaluation of the significant progress and problems." His report will have to be considered as a separate item on the agenda of the General Assembly, the Economic and Social Council and the Commission on Human Rights.

This proposal, if adopted, will provide the United Nations with a modest but useful instrument for the fulfilment of its mandate, under article 13 (1) of the Charter, to assist "in the realization of human rights and fundamental freedoms for all." It does not go so far as to provide machinery for the implementation of the Universal Declaration of Human Rights. The High Commissioner is not intended to form part of the machinery for the implementation of existing or future international instruments relating to human rights, and his powers and functions will not be such as to clash with machinery for their implementation, but will rather be complementary to such machinery.

The High Commissioner's power to give advice and assistance to United Nations organs which request it, will be of considerable value to bodies such as the Commission on Human Rights, which is not organised in such a way as to enable it to undertake detailed examinations of particular problems and at the present time has no independent authority available to which it could entrust such a task. Further, the High Commissioner, being independent of government influence, would be in a position to act completely impartially in any assistance he might give to United Nations organs.

One aspect of the proposal which is of considerable importance is the power given to the High Commissioner to render assistance and services to governments when requested to do so. Governments, particularly of newly independent states, are frequently faced with complex problems affecting human

rights in regard to which they require advice and assistance. At the moment there is no United Nations body to which they can turn. The result has been that non-governmental organizations, such as the International Commission of Jurists, have received requests from governments for assistance. In 1965 the International Commission of Jurists, at the request of the government of British Guiana, set up a Commission of Inquiry into certain racial problems which had to be solved prior to the granting of independence; further requests have been received since from governments for assistance, but non-governmental organisations are not the ideal bodies to carry out this sort of mission; they have not the necessary resources to undertake this work; nor are they always politically acceptable. This is a function which would be much better performed by a High Commissioner appointed by the General Assembly, with all the moral authority that he would have as representative of the General Assembly. There is a considerable field in which, for lack of an appropriate United Nations authority, the non-governmental organisations are the only bodies to take an active interest. The appointment of an independent and objective High Commissioner would provide a United Nations authority able to perform some of the functions now being discharged by non-governmental organisations. Non-governmental organisations are often overwhelmed by demands on their services; they are just unable or ill equipped to cope with all the situations in which their assistance is sought.

It is really those governments which level criticism at non-governmental organisations generally, or which accuse them of bias, which should be foremost in supporting the proposal for the creation of the post of a High Commissioner for Human Rights. Paradoxically it is these governments which, so far, have opposed the proposal.

The High Commissioner, through his report to the General Assembly, could play an important part in encouraging and securing the ratification of international conventions relating to human rights. For example, the two covenants relating the one to civil and political rights and the other to economic, social and cultural rights, which were adopted in December 1966, will not come into effect until they have been ratified by at least 35 states. By drawing attention to ratifications, and the need for further ratifications, the High Commissioner will be able

to remind not only governments but world opinion of the existence and the importance of such international instruments. In the field of racial discrimination in particular, the role of the High Commissioner would be very important.

He will thus, by focusing attention in his reports on important human rights issues, be able to play an important educative role in relation both to governments and to public opinion. Gradually, he might well be able to achieve a common standard of behaviour in regard to human rights issues.

At the same time, the High Commissioner's powers and functions are so defined and limited that his office will in no way encroach upon national sovereignty. He cannot intervene in the internal affairs of any state. He cannot undertake an investigation against the will of the state concerned; he can only act in relation to the internal affairs of a state, if he is requested to render assistance by the government of that state. He cannot issue any binding orders or directions.

The International Commission of Jurists, together with other non-governmental organisations interested in the field of human rights, hopes that one day the United Nations will adopt machinery for the protection of human rights that goes much further than this unassuming step. It would like to see a body empowered to receive individual complaints of violations of human rights and to issue binding orders to governments; but at the present time such a proposal would have no hope of acceptance by the majority of the General Assembly. Modest though it is, the proposal for the institution of a High Commissioner for Human Rights is, in the view of the International Commission of Jurists, worthy of the support of those anxious to promote the cause of human rights. It would make a useful contribution to the protection of human rights acceptable to the large majority of the member states of the United Nations, since it is no way encroaches upon their national sovereignty and, while providing them with an institution to which they may turn for assistance if they desire it, refrains from any unsolicited interference in their domestic affairs.

It is of significance that six of the principal organisations concerned with human rights issues reacted at once, when Costa Rica first cabled the proposal, and issued the following statement :

“ Believing that the future stability and peace of the world depends largely upon the recognition and protection of human rights, the

undersigned international organisations, which are actively concerned in this field of work, have decided to give their full support to the Costa Rican proposal for the appointment of a United Nations High Commissioner for Human Rights. They endorse this proposal as a constructive and practical means, in present circumstances, of ensuring more effective observance of the provisions of the Universal Declaration of Human Rights.

"The Costa Rican proposal has received the detailed and careful consideration of the undersigned international organisations; in addition, it has received the support of leading international experts in this field.

"Rather than review in detail the provisions of the Costa Rican proposal, which speaks for itself, the purpose of this memorandum is to point out some of the relevant factors; these are:

"1. By accepting this proposal, the General Assembly will be complying with its mandate under Article 13 (1) (b) of the Charter by 'assisting in the realisation of human rights and fundamental freedoms for all'.

"2. The proposal provides machinery which can assist national governments at their request, as well as United Nations bodies, in dealing with racial and other human rights problems.

"3. The High Commissioner would facilitate progress in the field of human rights without duplicating or replacing existing organs and procedures, or any machinery that might be established by the Covenants or other international conventions.

"4. The proposal does not empower the High Commissioner to intervene in the internal affairs of any state or to exercise any judicial functions; it in no way encroaches upon national sovereignty.

"5. The functions proposed for the High Commissioner fall short of those which the undersigned international organisations would wish to have assigned to such an independent Office. They do, however, appear to represent the maximum likely to be acceptable to a number of governments in the present circumstances.

"Amnesty International  
International Commission of Jurists  
International Federation for the Rights of Man  
International League for the Rights of Man  
World Jewish Congress  
World Veterans Federation"

Many other non-governmental organisations have also expressed themselves strongly in favour of the proposal. Most experts in the field of human rights also endorse it.

It would be a tragedy and a cynical rejection of the Universal Declaration if this modest and moderate proposal were



not adopted and implemented before International Human Rights Year 1968. Make certain to enlist your Government's whole-hearted support for it. As the proposal may be considered very soon, act now.

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## WINDS OF CHANGE IN BURMA?

In an article entitled "Military Rule in Burma" which appeared in *Bulletin* No. 15 (April 1963), the International Commission of Jurists examined the situation in Burma after the military coup d'état of March 2, 1962. In that article the Commission expressed particular concern over the arrest and detention of the President, the Prime Minister, the members of the Cabinet, the Chief Justice and other important persons including the parliamentary leaders of the Shan minority group.

From August to October 1963, while the persons originally arrested continued to languish in detention, new waves of arrests by the military government caused grave concern to the free world. The victims of these new arrests included U Chan Htoon, a former Judge of the Supreme Court of Burma and a Member of the International Commission of Jurists, U Law Yone, Chief Editor of *The Nation*, a leading Burmese newspaper, and prominent political figures, particularly leaders of the Anti-Fascist People's Freedom League and of minority groups. Although the Revolutionary Council, the organ of administration set up by the military regime, claimed that all these people were arrested and placed under "protective custody" in the interests of the nation, their arrest and detention without trial and without any charges whatsoever having been preferred against them clearly indicated that the new regime had scant regard for the Rule of Law or for fundamental human freedoms. These arrests and other arbitrary measures taken by the Revolutionary Council led the International Commission of Jurists to write another article, in *Bulletin* No. 17 (December 1963), entitled "The Burmese Situation Deteriorates".

Since writing that article, the Commission has watched the Burmese scene with considerable anxiety. Efforts made by

Mr. Seán MacBride, the Secretary-General of the International Commission of Jurists, to secure the attendance of U Chan Htoon at the Meeting of the International Commission of Jurists, held in Geneva in October 1966, proved futile and there was no response to his appeal to the Burmese Government to permit him to attend that Meeting.

Although the Commission has not received any allegations of ill treatment of political detainees, and although reports received tend to suggest that the conditions of their detention are not unsatisfactory, the fact that so many leading figures in the political life of the country have continued to be under detention for so long a period of time, without any attempts whatsoever being made even at a late stage to prefer charges against them, can only be condemned as a gross violation of the Rule of Law.

Nationalisation without compensation was another aspect of the military government's programme to which the Commission has drawn attention as being in conflict with the Rule of Law. Not only were business enterprises, owned by Burmese citizens, nationalised under the new nationalisation laws, but even those owned by foreign nationals, mostly Europeans and Indians, were also nationalised. Indian businessmen were either expelled from the country or detained for committing "economic offences" when the law nationalising trade was promulgated on May 21, 1964.

But there has recently appeared a faint silver lining on the dark Burmese cloud. On February 5th the Burmese Government announced that it had released more than 50 detainees, among whom were politicians and journalists. A few days later, official sources claimed that the Revolutionary Government had released 116 political detainees, held in protective custody in jails throughout the country, and that those released included 56 Buddhist monks, who had been detained for anti-governmental activity, and several students and rank and file politicians. No prominent political leaders appear to have been included in these releases. It is not quite clear whether the 116 detainees, claimed to have been released, included or were in addition to the 50 released on February 5. Nor is it known whether U Chan Htoon was among those released.

Following upon talks with the Indian Government, the Burmese Government agreed on January 27, 1967 to release 15 of the 24 Indian nationals, detained for committing "economic

offences", immediately and to release the remaining nine in the course of a few months. Discussions between India and Burma are now proceeding on the question of the payment of compensation to expelled Indians.

It is hoped that these developments indicate a tendency on the part of the Revolutionary Council to re-think its political attitudes and doctrines in the light of those fundamental freedoms, which the Universal Declaration has emphasised to be the inalienable right of all men living in a free society.

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## AGRICULTURAL REFORMS IN EASTERN EUROPE (Part II)

*The first, introductory part of a survey on agricultural reforms in Eastern Europe was published in Bulletin No. 28 (December 1966). It provided an historical retrospect of the collectivization of agriculture in the Soviet Union and in other countries of Eastern Europe and of the reappraisal of agricultural policy in recent years. It was recalled that new legislation was being gradually introduced into many of the countries of Eastern Europe relating to agricultural management and planning and the marketing of agricultural products. A survey of the measures adopted in some Eastern European countries now follows.*

### **Bulgaria**

The years 1965 and 1966 witnessed sustained and detailed preparatory work with a view to introducing new legislation concerning collective farming. In March, 1967, Radio Sofia announced that a new draft statute for collective farms, replacing earlier legislation dating from 1950, had been approved at a National Conference of Collective Farmers.

Reports on discussions concerning this draft statute indicate a desire to prove "kolkhoz democracy"\* and to elect organs of collective farms at various levels. It has been suggested that

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\* For this particular form of self-management, see Part I of this article, in *Bulletin* No. 28.

collective farms establish their own supervising organs in the form of district councils and a Central Council of Agricultural Collective Farms. The new self-governing organs would then take over supervision from the Ministry of Agriculture.

On the internal structure of collective farms, the draft statute is reported to provide for the re-organization of the economic funds of collective farms, and to make the allotment of private plots more flexible by stipulating that their size should vary according to the number of able-bodied members of the peasant family and the total number of persons in each household.

At a public discussion organized in December 1965 at the "Georgi Dimitrov" Higher Institute for Rural Economy, a proposal called for the introduction of voting by secret ballot at the elections in collective farms, in order to "avoid the danger of election of unsuitable or unwanted people." A rise in the purchasing prices of non-profitable rural products was also demanded, as well as the financing of the "Bad Harvest and Calamities Fund" by the whole society, and not by collective farms alone. Secret balloting in the election of collective farm management was introduced by a Decree in January 1966 in certain selected districts. In other districts, local party and administrative organs could authorize its introduction (*Kooperativno Selo*, January 20, 1966). Voting by secret ballot in collective farms is a new development in Bulgaria.

## Czechoslovakia

The Statutes on agricultural co-operatives, promulgated by the Sixth Congress of Agricultural Co-operatives held in April 1964, and confirmed by the Government, provided that private plots may be allocated to families of co-operative farmers "wherever the agricultural co-operatives cannot do without them" and fixed their maximum size as 0.5 hectares\*, and, in mountainous regions 1.0 hectare\*). On a recommendation of the Central Committee of the CPCS,† the Congress adopted a new system of distribution of incomes, taking into account the total income and not merely the monetary yield, as previously. Other resolutions aimed at strengthening work discipline and increasing the powers of the collective farm management.

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\* 1 hectare equals 2.4711 acres.

† The Communist Party of Czechoslovakia.

The Theses for the 13th Congress of the Communist Party of Czechoslovakia announced a new system of management in agriculture. This system will "encourage agricultural enterprises to strive for maximum effectiveness having regard to their specific natural and economic conditions . . . The economic independence of agricultural enterprises will be strengthened . . . in the sphere of supply-demand relations, agricultural enterprises will have equal rights with enterprises in other branches of the economy . . . their power of decision concerning investments and distributing remuneration will be increased . . ."

A resolution adopted by the Plenum of the Central Committee of the CPCS of March 22-23, 1966 stated that the necessary measures would be fully worked out during 1966 and that "it will be possible to put into effect the improved system of planning and management of agriculture by January 1, 1967"\*. A transition from remuneration in kind to monetary rewards is planned. The collective farm chairmen would enjoy large discretionary power to create and use funds for personal incentives. Planning is expected to remain more centralized than in the Hungarian project, where only cereal quotas would remain centrally planned. The collective farm, however, could specialize freely. No change is planned of the restrictive policy on private plots.

Dr. Lubomir Strougal, Chairman of the Agricultural Committee of the Central Committee, admitted that "a command system of central management is unable to ensure permanently a proportionate development of agriculture" (*Rudé Právo*, February 2, 1966). He also stated that "the new economic system in agriculture will require radical changes in thinking and decision-making" (*Rudé Právo*, May 15, 1966). However, the plans published until now do not show imaginative or radical changes, apart from substituting direct control by indirect economic control.

### **East Germany**

The Ninth National Peasants' Congress was held in East Berlin, on February 26-27, 1966. Walter Ulbricht, First Secretary of the United Socialist (Communist) Party and Chairman of the

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\* These economic reforms have, in fact, been implemented in one sector of agriculture by a State Farm Statute, which came into force in January, 1967.

State Council, announced a Ten Year Plan for the development of agriculture based on five principles, among which figured a more efficient management in the framework of the new economic reforms, greater co-operation among collectives to increase profit potential, and the expansion of the contract system between collectives and the processing industry. The Congress asked competent organs of the State to support agricultural collectives in their drive to realize these reforms.

The Supreme Court of the German Democratic Republic held a plenary session on March 30, 1966, to discuss legal problems involved in the current economic reform in agriculture (*Neue Justiz*, 1966, No. 9). Three items were discussed: 1. co-operation of courts and agricultural councils to raise the efficiency of court procedures in matters of agricultural collectives; 2. material incentives for and civil liabilities of members of agricultural collectives; 3. judicial revision of decisions taken by the general assembly of the agricultural collectives. Eventually the Supreme Court issued its I PIB 2/66 directive. Among the rules contained in this directive, the following should be mentioned:

“Courts have no competence to alter norms of remuneration; according to the Statutes of Collective Farms, this falls within the exclusive competence of the general assembly of the collective.”

Decisions of the general assembly of a collective farm can be revised by a court only if the decision relates to claims for remuneration or compensation, and especially if it relates to financial sanctions applied to the detriment of a member of the collective, cases of disciplinary sanctions excepted. An appeal lies from all decisions or claims without financial implications to the District Councils of Agriculture. These Councils also have competence to decide such claims as are regulated, according to the Statutes of Agricultural Collectives, exclusively by agricultural collectives. The Supreme Court gave a new interpretation to its powers in regard to the examination of the procedural validity of general assembly decisions. Questions relating to the quorum required for valid general assembly decisions, by reason of this new interpretation, have become a matter within the competence of District Agricultural Councils, and not of the Courts.

## **Hungary**

Reform in agriculture started with the introduction of a new system of bonuses for members of collective farms from 1963

onwards. This new system provided for the allotment of a certain amount of land to a family or group of families for the whole agricultural season. In the history of collectivized agriculture this method was resorted to at times when large working brigades had to be abandoned. But after such periods, there was usually a re-grouping of teams into bigger units for fear that small teams might lead to the break-up of collective farming in favour of family farming. Members of these small teams are paid for their work by being credited with a certain number of labour days, and by sharing in 15 to 20 per cent of the harvest. They receive cash advances against the number of labour days to their credit. The system produced appreciable results and became well-known outside Hungary. In 1965, Soviet agricultural experts asked for its introduction in the Soviet Union.

In the second half of 1965, legislation was enacted to reform collectivized agriculture. Decree No. 33/1965 of August 18, 1965, issued jointly by the Ministry of Agriculture and the Ministry of Food, reformed the position of agricultural farms in their relation to agricultural administration and to various state purchasing and procuring agencies. Two Ordinances were issued on the same date, one introducing amendments in planning methods of agricultural collectives, and another dealing with contracts between purchasing and procuring agencies and collective farms. Finally, a decree of December 31 1965 repealed 17 confusing regulations, and outlined new rules for an overall investment policy for collective farms. In cases of programmed investment included in large-scale, long-range government plans, collective farms have a say only in how these investments should be made, and may proceed to make the investments after approval by the Ministry of Agriculture. "Non-programmed" investments are decided on by the collective farms themselves and approved by local administrative officials. Such investments are expected to be made with the farms' own resources.

The 9th Congress of the Hungarian Socialist Workers' (Communist) Party, held from November 28 to December 2, 1966, announced the following policy for agriculture :

"In agriculture we shall gradually provide conditions for the overwhelming majority of the farms to meet out of their own incomes the outlay required for increasing production and personal expenses. We must enable the co-operative farms to introduce the guaranteed monthly payment of wages in all of their production

branches. While vigorously developing the co-operative farms, we must continue to pay increased attention to the maximum utilization of the possibilities of household plots." (*Information Bulletin*, Prague, 1966, No. 24.)

The underlying principle seems to be that while self-management is rejected in industry, it is encouraged in agriculture. Therefore agricultural collectives should be freed from all "administrative interference". The State should give them guidance; but in a more diversified and more efficient way than hitherto. Collective farms should become self-supporting enterprises and provide out of their own resources the larger part of their investments. They will also have to pay land and income taxes. The government will continue, however, to support financially the weak collective farms, the number of which was assessed in 1965 as 1,000 out of 3,413 (*Népszava*, May 15, 1965). Labour relations between a member and his collective farm will be regulated in future by bilateral contracts setting out rights and duties; social security benefits will be improved, to approach the level enjoyed by industrial workers.\*

These reform measures indicate a reasonable effort to improve the conditions of work of collectivized peasants. The new legislation has given, for the first time in Hungary, a legal status to agricultural collectives, in which self-management can become a reality, and in which collective farms may deal as equals with state purchasing agencies on the socialized market.

## **Rumania**

Rumania was the first country in Eastern Europe to adopt new statutes for agricultural co-operatives. The founding Congress of the National Union of Co-operatives held on March 7-9, 1966, had on its agenda three main items: the new Statutes, the establishment of the National Union of Co-operative Farms and the adoption of a Pension Fund for Co-operative Farm members.

Co-operative farms are recognized by the new statutes as legal persons, and defined as a socialist organization with voluntary membership. Participation of collective farms in govern-

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\* The first national congress of collective farms was convened for April 1967 to discuss a new law on agricultural co-operatives. Its tasks also include the establishment of a National Co-operative Farm Council, as already established in Rumania and planned in Bulgaria.



ment-planned irrigation projects, land amelioration and "chemicalization" (i.e. the increased use of chemical fertilizers), is expected to increase.

The new Statutes retain the provision in the former 1953 statutes, limiting the area of private plots to 0.3 hectares. A full plot is to be allotted to those families in which at least two members work for the co-operative. Private plots are assigned by the general assembly to those who have a minimum number of labour days to their credit. The number of privately-owned animals is increased to three cattle for production and fifteen sheep or goats. The number of pigs and poultry allowed is unlimited.

Membership of collective farms is now open to everybody and even former rich peasants may be admitted. A member may also leave the collective, in which case a cash compensation must be paid for the social parts of the assets brought in by him. The sum and the instalments in which payment is effected are fixed by the general assembly. The Statutes of 1953 provided for compensation for land allotted outside the area of the collective. This has now been abolished. Members can be excluded for grave infringements of the Statutes by a majority vote of the general assembly. The expelled member has a right of appeal to the newly-established National Union of Co-operatives.

The Statutes acknowledge the right to pension, and establish an arbitration court elected for two years by the general assembly to deal with complaints on disciplinary sanctions, indemnities, compensation, etc.

Organization of work has become more flexible: not only brigades, but teams also are recognized as part of the brigades.

Accountants are to be appointed and paid by the State. The basic unit of accountancy remains the labour day, but supplementary remuneration also forms part of the member's income. Remuneration for the labour day units is now fixed by the general assembly; whereas formerly it was regulated by norms of the Ministry of Agriculture. The income distribution is now based on net production, instead of the former gross income in cash.

The supreme body of the co-operative is the general assembly, where voting is by show of hands and not secret.

The new pension fund is constituted from contributions of agricultural co-operatives, and monthly contributions of co-operative farm members. Pensions consist of a cash payment and assistance in kind, amounting to at least two per cent of the yearly output of the collective farm. In addition, the use of the private plot may be continued. Pensions are paid to men over 65 and women over 60 who have worked at least five years in the collective farm, and also to orphans. The Congress urged co-operative peasants to join the Fund, in order that one million old co-operative peasants and 200,000 orphans and invalids might receive pensions starting from January 1, 1967. The creation of the Pension Fund is an improvement of the lot of co-operative peasants, since no such provision existed before in the country. It should be pointed out, however, that even now peasants are in an economically inferior position to industrial workers, where the pensionable age is lower, by five years, and the pensions are much higher.

Decree No. 20 of the State Council of January 28, 1966, created the Higher Council of Agriculture and its regional departmental and town councils, to guide and support the activities of co-operative peasants, to establish an efficient uniform system for the economic and financial activities of collective farms, and to improve marketing conditions for agricultural products. The National Union of Co-operative Farms was entrusted with the same responsibility.

Radio Bucharest announced on April 12, 1966, the enactment of a Decree of the Council of Ministers revising the system of repair of machines and installations in agricultural co-operatives.

Compared with other reforms under consideration or already in the stage of introduction, the Rumanian reform appears to be rather conservative; the emphasis is on guidance from above, and self-management still remains limited.

## USSR

The Plenum of the Central Committee of the Communist Party of the Soviet Union (CPSU), held on March 24-26, 1965, reviewed administrative reforms enacted in the last ten years. The transcript of the discussions was published later in the same year. Criticism centred on the administrative reforms introduced during the Khrushchev era. One of the participants remarked that this was the first plenum at which it was possible to speak

frankly about the mistakes and shortcomings, and tasks. Mr. Garbuzov, Minister of Finance of the USSR, spoke about the immense task to be performed in order to create the necessary upsurge in agriculture, and resorted once again to referring to American achievements in order to measure Soviet results. According to this data, the prime production funds in the USA are five times larger than in Soviet agriculture and mechanization is almost four times greater. The Plenum showed willingness to use the experience of some other socialist countries of Europe in raising personal incentives. One of the basic proposals was the introduction of guaranteed daily wages for collective farmers equal to that of Sovkhoz workers. For that purpose, it was said that it was necessary to allocate one rouble and two kilogrammes of grain per labour day. Such a measure will require that the average 1962-64 cash wage fund of collective farms be raised by 750 million roubles and by 100-200 million poods\* of grain.

This policy measure as introduced by a Decree of May 1966, starting from July 1, 1966. It provides for a guaranteed monthly payment in cash and kind, determined in accordance with the work norms established for workers of state farms, and a share of the co-operative's profit, if any.

After the March 1965 Plenum, a series of other measures were also introduced to improve planning and provide greater incentives in order to boost agricultural production. A new system of purchasing farm products was devised. Collective and state farms have been given fixed plans for purchases covering a period of five years. The purchase price of many agricultural products has been raised.

The 23rd Congress of the CPSU, held in March-April 1966, recognized that "to secure an upsurge of collective and state farm production is a key task of the Party," and adopted the directives of the next Five Year Plan, according to which capital investments in agriculture are to be almost doubled. It was further stated that, in order to develop the productive forces of agriculture, it was necessary to improve social relations in the countryside and to stop attempts to convert collective farms into state farms. It was also announced that the Third All-Union Congress of Collective Farmers would be convened to examine the new Statutes of the Agricultural Artel (Collective)\*\*.

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\* 1 pood = 16.3 kg.

\*\* The date for this Congress has not yet been fixed. (The first two were held in 1933 and 1935).

One of the principal conclusions of the 23rd Congress of the CPSU was that "Kolkhoz-democracy should be re-established [in agriculture] on the basis of Leninist principles; management of collective farms should be developed, and a special organisation set up at all levels to supervise their work." †

### **Equal Income for Agricultural and Industrial Workers**

The progress of industrialization makes it increasingly difficult in every country to strike a proper balance between agriculture and industry in the national economy. Agriculture becomes a problem child; and the difficulty arises of assuring for the diminishing number of those who work in agriculture a treatment and income equal to those engaged in industrial production.

Article 23 of the Universal Declaration of Human Rights proclaimed the right to equal pay for equal work without discrimination, and to remuneration which would ensure for everyone an existence worthy of human dignity. To ensure the enjoyment of this right both in agriculture and in industry becomes an increasingly complex task. This problem exists in every industrialized society; but it is more acute in Eastern Europe and in countries which reduce the peasants to the status of salaried employees. A reappraisal of former policies is under way in most Eastern European countries. In some countries partial decollectivization is taking place; in others, efforts are being made to build up collective farms as self-managed, self-supported agricultural enterprises, in which "kolkhoz democracy" becomes more and more a reality. How far these reforms will advance, it is still too early to tell.

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† Cf. G. A. Aksenenok, "Draft Statute and Bill on Collective Farms", in *Sovetskoe Gosudarstvo i Pravo*, 1966, No. 9, pp. 94-101.

## THE RULE OF LAW ABROGATED IN GREECE

The International Commission of Jurists would be failing in its duty if it did not call attention to the extremely serious situation which has arisen in Greece following upon the coup d'état carried out by a self-appointed group of military officers.

Until April 21, when the coup d'état took place, a lawfully constituted Government was in control and elections were due to be held on May 28. This coup d'état was clearly intended to overthrow the Government and to prevent the Greek people from expressing their will at an election. This is in complete violation of the Rule of Law which the International Commission of Jurists seeks to protect. Indeed at the Athens Congress of the Commission, in 1955, it was laid down :

“The will of the people is the basis of the authority of public powers. This will must be expressed by free elections... The legislative power must be effectively exercised by an appropriate organ, freely elected by the citizens. The laws and other legal measures taken by the legislature cannot be abolished or restricted by a governmental measure.”

Having seized de facto power, the military regime purported to issue a decree “suspending” all those articles of the Constitution which protect the rights of the individual and provide the guarantees necessary for the maintenance of the Rule of Law. This group of military officers had, of course, no authority to nullify the Constitution. In case of grave public danger the King on the advice of the Government, and subject to subsequent ratification by Parliament, could have suspended some Constitutional guarantees. The military officers went even further than the King, the Government and Parliament were entitled to go in that they purported to suspend Article 18 of the Constitution which cannot be suspended even in an emergency. It is the Article which forbids torture, capital punishment for political offence and total confiscation of property. Although this suspension was subsequently withdrawn, the fact that it was contemplated can only give rise to real fears as to the intentions of the regime. The following fundamental constitutional safeguards are among those that have also been abrogated : freedom of the press and of expression, protection from arbitrary imprisonment,

prohibition of special tribunals, freedom of association, inviolability of the home.

This illegal suspension of the constitutional safeguards of the Rule of Law was followed by a series of draconian measures, introduced by "emergency laws". Censorship and severe restrictions have been imposed upon the press resulting in the closure of several newspapers, public meetings have been prohibited, numerous homes have been searched, military courts have been set up and political parties have been dissolved, as have several hundred other organisations, including trade unions, cultural societies and sports clubs, their property being seized and their archives and bank accounts confiscated.

Some thousands of persons, including politicians, lawyers, journalists and ordinary citizens, have been arrested and detained. Their fate is still uncertain. On April 25, Colonel Papadopoulos said at a press conference that they would be tried by "commissions of security" which would include in their membership judges of the ordinary courts. However, some days later he said that: "Those who make a statement — which is accepted as sincere — and who will no longer be a danger to public security will be released. As for the others, they will wait until there is no longer any fertile soil in which they can sow their seeds of trouble. They will then be released, but kept out of the way". It is difficult to opt as to whether "trial by Commissions of Security" or a decision by some unknown authority in secret is to be preferred.

The fact that some jurists are in the service of the military regime and occasional protestations that "legality will be respected" can in no way conceal the flagrant violation of the Rule of Law which is taking place. Everyone knows only too well the fatal path along which are led all dictatorial regimes instituted by force and maintained in power by coercion, even when at the start the persons concerned acted in good faith and from the best of motives.

Greece is a party to the European Convention for the Protection of Human Rights. The actions and methods of the Greek military regime clearly offend the provisions of the Convention. Accordingly these events concern not only Greece but all the other High Contracting Parties to the Convention and are highly damaging to the concepts of democracy and legality.

Wherever they take place, military coups d'état, forcible seizures of power, and the disregard of the fundamental prin-

ciples of justice and freedom which have been painstakingly forged as civilization has developed, are always highly dangerous and damaging. There are cases where one can perhaps point to circumstances capable, if not of justifying or excusing such actions, then at least of making them less intolerable. This is not such a case. The fact that democracy should have been not only scorned but deported and placed in a concentration camp in a European country and more particularly in Greece, the cradle of the very concept of democracy and a country whose millennial humanist tradition had become a symbol, is felt by world public opinion with quite particular anxiety and distaste.

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### SPAIN: NEW PROVISIONS IN THE CRIMINAL CODE

When commenting upon the Press and Publications Law of March 18, 1966, the International Commission of Jurists said that it constituted an important step towards the improvement of institutions in Spain<sup>1</sup>, in spite of the fact that some of its provisions lacked precision and that others were capable of lending themselves to serious restrictions on freedom of expression. Nevertheless, this statement was more than justified by a comparison of the new law governing the press with that which had been in force for the previous 27 years, under the laws of 1938.

The period of scarcely a year since the law came into force has witnessed a remarkable liberalization in the nature of the information given by the press on all matters relating to Spanish political life, with the approbation of the world press and of all those who believed that a new period was truly beginning in Spain.

Unfortunately, such optimism was not to be long-lived. The Spanish *Cortes* (Parliament) has recently passed a law (of April 8, 1967 — 3/1967) amending certain articles of the Criminal Code. Under this law the position of the Press in Spain has again

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<sup>1</sup> International Commission of Jurists. *Bulletin* No. 27 of September, 1966.

been modified — but this time to its detriment. The articles which appear to have the most serious implications are in the following terms :

*Article 123* : Affronts to the Spanish Nation, the State or its political form, or to the idea of its unity, as well as to its symbols and emblems, shall be punished with short term imprisonment and, if occurring in public, with long term imprisonment.

*Article 164 bis, "A"* : All persons guilty of acts, or of conducting propaganda, against the principles of the National Movement (*Movimiento Nacional*), hereby declared to be permanent and unchanging, shall be punished with short term imprisonment and a fine of ten thousand to one hundred thousand pesetas. The same punishment shall apply in the case of acts and propaganda advocating the derogation or change by illegal methods of any other provision of the fundamental laws of the Nation.

*Article 164 bis "B"* : Offensive conduct towards the National Movement and towards its leaders, and insults and attacks against its heroes, martyrs, banners or emblems shall be punished with short term imprisonment and a fine of five thousand to twenty-five thousand pesetas if such offences are deemed serious ; long term detention<sup>2</sup> with a fine of five thousand to ten thousand pesetas if not so deemed.

*Article 165 bis "B"* : Any person who transgresses the limits imposed by law on freedom of speech and the right to publish information, by the publication of false news or of information dangerous to morals and customs, or to the prejudice of national defence, the security of the State or the maintenance of internal public order and external peace, and any person who attacks the principles of the National Movement or the fundamental laws, or who in criticising political or administrative measures fails to show proper respect for institutions and individuals, or who attempts to interfere with the independence of the Courts shall be punished with long term detention and a fine of five thousand to fifty thousand pesetas.

The mere reading of these provisions leads to the conclusion that they allow for the complete elimination of every possible type of criticism of government action, especially if it is borne in mind that these articles now form part of the Spanish Criminal Code and define new, numerous and subtle criminal offences. The gravity of the matter lies in the fact that these offences have been merged with the common, traditional offences found in every penal system.

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<sup>2</sup> The period of detention is from one day to 6 months : that of imprisonment from 6 months + 1 day, to 12 years.



The ordinary criminal is punished, in the interest of Society, in order to repress by appropriate measures forms of behaviour that are dangerous and repugnant to the conscience of the Community; protection is given to the Community from its undesirable elements. Punishment, in addition, not only seeks to give the criminal his due, but also to re-adapt him to life among his fellow beings. The recently approved offences, however, have quite another aim: that of freeing the government from the opposition that its acts may arouse. The only beneficiary is the government which is helped to maintain itself in office, while Society as such not only derives no benefit from the suppression of opposition, but is in fact prejudiced by the lack of opportunity to listen to all shades of opinion, however dissident, and to support or reject them according to its own views and not on the basis of a single, imposed attitude. Anyone reading the provisions must come to the same conclusion. What is truly regrettable here is that even with the best will in the world it is impossible to do otherwise.

Article 123 provides for short term imprisonment (from six months and one day to six years) or long term imprisonment (six years and one day to twelve years) if publicity is involved in the affronts to the "Spanish Nation, the State or its political form...". It ably and openly deprives of all value the repeated decisions of the Supreme Court of Spain, which draw a distinction between "insults to the Nation" and "censure of the regime" and emphasize that in no case can the former be assimilated to the latter. Thus, under the new provisions, a news article that criticises the political form of government may lead to the imprisonment of its author for a period varying from six years and one day to twelve years on the ground that the criticism has been made publicly. Even if the judge trying the case should wish to be lenient in the application of this provision and apply its minimum terms, the sentence would still be disproportionately heavy, when one looks at the true magnitude of the fault in the context of universal values.

It is difficult to find in such provisions indications of the Spanish government's intention to liberalize, so often publicly announced both before and after the referendum of December 14, 1966. It is also unnecessary to say that it is not easy to endorse, in this matter, the comparisons that some Spanish authorities have made with other countries in Western Europe.

Articles 164 *bis* A and B contain declaratory principles which, in more or less the same terms, repeat what is said in Section VII of the "Statement of Principles of the National Movement" of May 17, 1958, once again insisting on their permanence and unchangeability; it is almost as if the authorities are fearful that, if not constantly repeated, these principles might easily be forgotten. What is more, they complete the defensive framework of the government by punishing the slightest manifestation of opposition with imprisonment and exorbitant fines, as can be seen from the list of offences created. At this point it may perhaps be useful to point out that the Spanish Criminal Code has an entire Section, Number X in Book II, devoted to crimes against honour, in which definitions and detailed provisions for the punishment of different forms of insult and libel are laid down.

Finally, Article 165 *bis* B makes criminal acts which had previously only been dealt with administratively under the terms of the Press and Publications Law of March 18, 1966, most of which are found under Article II as "limitations on freedom of speech". From the standpoint of penal legislative technique, this article has the serious flaw of using highly ambiguous expressions, such as "dangerous information", that can be interpreted in a variety of ways. The limits of vagueness are reached with the sentence referring to those "...who fail to show proper respect for institutions and individuals, when criticising political and administrative measures". This provision defies the basic principle of legal certainty, when it seeks to make conduct as subjective as "...failing to show proper respect" a criminal offence, without laying down the precise limits of such unlawful behaviour. Provisions such as this are truly unworthy of a country that has led the way in so many realms of knowledge, and especially in the legal field. This is all the more regrettable in that, in addition to the legal defects from which this provision suffers, it can only lead to arbitrariness in its application.

Article 165 *bis* will require such caution from the Spanish press as to render it totally ineffective. Nor should it be forgotten that the articles discussed here will facilitate the perfect operation of the censorship provisions in the Press and Publications Law, and in particular the provision relating to the mandatory filing of all publications before they are printed and

distributed, as required by Article 12 and magnificently complemented by Article 64, paragraph 2, which reads :

“When the Administration becomes aware of facts which may constitute an offence committed through the media of the press or other publication, and without prejudice to the obligation to report those facts to the competent authorities, while simultaneously informing the prosecuting authorities, it (the Administration) may, in anticipation of the judicial measures provided for in Section V of Book IV of the Criminal Procedure Law, order the impounding and placing in judicial custody of the offending publication or printed matter, whatever they may be, as well as of the plates, with a view to the prevention of their publication or distribution. The judicial authority, on receipt of the charge, shall make the appropriate order for the impounding of the publication or the printed matter and plates.”

Thus, the slightest criticism of governmental affairs in a publication — and so many such criticisms now constitute criminal offences — will be sufficient to empower the Administration, if it so wishes, to impound both publication and plates under the terms of the article quoted above. It seems hardly necessary to add that even if, on completion of the proceedings, the court should order the release of the publication, it would be to little purpose : this is a clear demonstration of the perfect operation of the mechanism restricting freedom of expression.

These provisions represent the present attitude of the Spanish government, for the proposed amendments to the Criminal Code were drafted by the Executive. They were given the approval of the Council of Ministers and sent to the *Cortes* for final adoption. The Legal Committee and subsequently the full *Cortes* have approved the amendments to the Criminal Code quoted above. During the Bill's passage, a number of editorials, news articles and statements appeared in various newspapers and magazines all over Spain. Almost all such publications were opposed to these amendments and requested at least a closer study of the Bill, with the participation of legal experts and journalists. A number of Bar Associations and of Journalists' Associations also made their voice heard in a responsible and constructive way.

In spite of all the criticism, the full *Cortes* only made minimal changes in the text approved by the Legal Committee. Indeed, it was over-optimistic to hope that it would vary its position in this particular case, especially since it involved a Bill submitted by the Executive. In these circumstances, the words of the

Minister of Information and Tourism, spoken on July 27, 1962, seem even more remote from reality: "Since I have been in this office, no order has gone out to the press. As for censorship, simply ask your Spanish colleagues what they think of the new system; I sometimes even think that the praises are somewhat exaggerated."<sup>3</sup>

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## APARTHEID IN SOUTH-WEST AFRICA

The Territory of South-West Africa has been under the observation of the international community for some twenty years, during which time the South African Government has been regularly urged to fulfil its obligation to provide the social, moral and material well-being of the inhabitants placed under its care in the name of "the sacred trust of civilization". The attention that has been focused on the legal and technical arguments involved has pushed into further obscurity the actual social and material conditions of the non-white majority of the people of South-West Africa, who, during forty-five years of South African rule, have been reduced, systematically, to a state of degradation and misery, of which most of the world remains unaware.

This article is not concerned with the International Law governing the League of Nations Mandate\*; nor is it a study of the terms of the Mandate and South Africa's practice in performance of it: its purpose is to show that the legal apparatus and techniques that South Africa employs to carry out its "sacred trust" in South-West Africa, are in defiance of that very basic right "to life, liberty and security" which the Universal Declaration of Human Rights sought to safeguard — after the devastation of another People not very long ago.

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<sup>3</sup> *España: Estado de Derecho*, Madrid, 1964, p. 143. (Reply to a report of the International Commission of Jurists).

\* This has been dealt with in *Journal*, Vol. VII, No. 2: "Judgment of the International Court of Justice on South-West Africa" (Staff Study); and Vol. VIII, No. 1: "The International Court and South-West Africa. The Implications of the Judgment", Dr. Rosalyn Higgins.

## Administration

The latest official estimate, made in 1960, of the population of South-West Africa (there has been no census since 1951) places the total at 554,000, of which 464,000 are African, 69,000 are European and 21,000 are Coloured. For administrative purposes, the Territory is divided into two zones, an arrangement inherited from the former German Administration. Lying to the south and comprising nearly two-thirds of the whole country is the European settler area, called the Police Zone, which also contains small, enclosed reserves of Africans who live and work there. These areas are completely segregated and the residential areas of the Europeans and Africans are separated by 500 yard buffer-strips. The rest of the population, that is, the majority of the Africans, lives in the Tribal Areas in the north, comprising the remaining one-third of the total area.

Since 1951, South-West Africa has been represented at the National Parliament at Pretoria by ten European South African nationals, six of whom sit in the House of Assembly and four in the Senate. The Legislative Assembly of the Territory consists of eighteen Europeans, all of them South African nationals living in South-West Africa. The South African Government exercises complete administrative and legislative control over the following internal matters of South-West Africa: African affairs, customs and excise, railways and harbours, police, external affairs, immigration, civil service, health, agriculture, lands, mining, commerce and industry.

The Tribal Areas, where there are no European settlers, are ruled indirectly through traditional chiefs, who function under the authority of the Administrator of South-West Africa. The President of the South African Republic is the declared Supreme Chief of All Africans, in which capacity he has drastic and almost unlimited powers to appoint and remove chiefs, divide or amalgamate tribal communities, deport and banish individuals and groups. He can order the removal of any person from one part of the Territory to another without allowing any form of access or appeal to the courts. Africans do not possess even the most rudimentary political power, and have no participation at all in the making of the laws which govern their lives completely, and which carry rigid sanctions. All independent attempts at political organisation are forcibly suppressed, as are those involv-

ing trade union activities. No intention to change this situation has ever been manifested by the South African Government.

South Africa is generally considered to have attained a very high place in the scale of regimes which practise racial tyranny in the modern world. However, the degree of technical refinement to which the application of apartheid has been brought in South-West Africa, where the usual pattern of colonial development was early taken over and adapted by the increasingly specialised socio-political South African system, shows that the existence and lives of the Africans are expressly and exclusively regulated to further the economic and social progress of the white minority. The system totally disregards the interests of the majority of the people, except in so far as is necessary for the production of maximum results. The Report of the UN-ILO Ad Hoc Committee on Forced Labour - 1953<sup>1</sup> concluded: "The ultimate consequence of the system is to compel the Native population to contribute, by their labour, to the implementation of the economy... It is in this indirect sense therefore, that in the Committee's view, a system of forced labour appears to exist in the Union of South Africa. The evidence before the Committee leads it to confirm in the case of South-West Africa the conclusions it reached in regard to the Union of South Africa".

Long before the South African Government evolved its laws to affect the "separate development" of the different communities by applying the specific concepts of "job reservation", "contract labour", "population control", "group area", "Bantu education", "mother-tongue instruction", not to mention "Bantustan", South-West Africa was already suffering the even yet unrealised effects of a pernicious experiment which used, among other things, the artificial exploitation of tribalism, in order to achieve the isolation of the African from all progressive and educating influences and from all economic benefits within the Territory and outside.

### **Control of Entry and Residence**

The presence and movements of the non-white population within the country are governed by a complex and rigid system

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<sup>1</sup> U.N. Document E/2431 ; I.L.O. Studies and Reports (New Series), No. 36.

of regulations contained basically in the Vagrancy Proclamation 1920 (as amended), the Master and Servant Proclamation 1920 (as amended), the Native Administration Proclamation 1922 (as amended), the Native Reserves Regulation 1924 (as amended), the Native Passes (Rehoboth Gebiet) Proclamation 1930, the Extra-Territorial and Northern Natives Control Proclamation 1935 (as amended), the Natives (Urban Areas) Proclamation 1951 (as amended) and the Regulations for the Registration, Control and Protection of Natives in Proclaimed Areas 1955 (as amended).

The Natives (Urban Areas) Proclamation governs the position of those Africans in urban areas within the Police Zone, which are those under the jurisdiction of an urban local authority, or which are declared by the Administrator of the Territory to be urban areas for the purposes of the Proclamation. Under Section 22 of this Proclamation, any area, urban or otherwise, which has in it a large number of Africans, may be declared a "proclaimed" area and be subject to the special requirements regarding registration and control of those in it.

Under Section 10 of this Proclamation, no "native" may remain in an urban area for more than 72 hours without official permission unless (a) he was born and permanently resides there, or (b) he has worked continuously in the area for one employer for not less than 10 years, or has continuously remained in the area for not less than 15 years, and has not during either period been convicted of any offence for which he can be imprisoned without the option of a fine, or (c) he or she is the wife, unmarried daughter or son under eighteen years of age of any person mentioned under (a) or (b), who is ordinarily resident with him. As regards entry and stay in proclaimed areas (the areas of all municipalities and most village management boards), the additional and more specific provisions of the Regulations for the Registration, Control and Protection of Natives in Proclaimed Areas apply. These also require special permission to be obtained where the stay is to be for more than 72 hours, but certain categories of persons, such as chiefs and headmen, ministers of religion, teachers at State-aided schools and policemen are exempt from these regulations.

Within the borders of the Territory itself, movements of Africans are controlled by the Native Administration Proclamation which, by Section 11 says, "any native who desires to travel

within the Territory may do so upon a pass issued by his European employer, or when he has no European employer, by a magistrate, or officer in charge". Under Section 12, a person so authorised may, at his discretion, refuse to issue a pass "for any reason appearing to him to be sufficient". Exemptions from these requirements are accorded to policemen and messengers on governmental service, missionaries, teachers, natives accompanying their European master and natives granted a certificate of exemption.

The entry into the Police Zone of persons from the northern Tribal Areas is regulated by the Extra-Territorial and Northern Natives Control Proclamation, which also applies to Africans coming into the Territory from outside, for example, from Angola and Zambia. All those coming under this law must be in possession of an identification pass or a duplicate service contract. After residence of more than 10 years inside the Police Zone, such persons may be considered natives of the Zone and be exempt from the pass requirement.

Entry into and exit from the Tribal Areas (where the majority of the Africans live) come under the Native Reserves Regulation, Section 13: "No native resident of a Reserve may leave or having left may re-enter without a written permit to do so, signed by the Superintendent thereof". Such a permit must state, *inter alia*, the relevant date, period of time and grounds. Under Section 14, a person may enter a Reserve for the purpose of applying for such a permit, provided he does so within 48 hours of entry.

The Rehoboth Gebiet is an area in the central region of the Territory inhabited by the Rehoboth Coloured Community and administered as a separate area under an agreement concluded between the Administrator and the representatives of the community in 1923. Provisions concerning the movements within this area are contained in the Native Passes (Rehoboth Gebiet) Proclamation and these correspond, with slight modifications, to the above-mentioned provisions of the Native Administration Proclamation.

### **Control and Supply of African Labour**

"The prosperity of the white settler community and the foreign corporations depends mainly on cheap African labour. Land



policy was deliberately designed to create a labour surplus. The combined pressures of land shortages and poverty have forced Africans to leave their rural homes for the white settler labour areas".<sup>2</sup>

An examination of the legislation governing the conditions of work is best begun by considering the official statements of the South African Government on the application of the Vagrancy Proclamation 1920.

"The Vagrancy Proclamation 1920 provides for the suppression of idleness and trespass. Natives are allowed to select their own masters... (But) When a Native is dilatory in finding employment, an employer may be indicated, and if he refuses to engage himself, he may be prosecuted under the Proclamation. Before sentencing Natives under the vagrancy laws, magistrates are required to give the offender an opportunity of taking employment in preference to undergoing imprisonment."<sup>3</sup>

It would appear that the Vagrancy Proclamation forms a basis for a general obligation of the African to work, and penal sanctions are provided for "idle and disorderly persons", who are variously defined. Section 1, for example, states "Any person found wandering abroad and having no visible lawful means or insufficient lawful means of support, who... shall not give a good and satisfactory account of himself, shall be deemed... to be an idle and disorderly person". On conviction, such a person is liable to up to twelve months imprisonment, with or without hard labour, spare diet and solitary confinement (spare diet and solitary confinement are not to be imposed beyond the first three months of any sentence). Section 3 (i): "Every person found without the permission of the owner (the proof of which permission shall lie on such a person) wandering over any farm, in or loitering near any dwelling-house, shop, store, stable, outhouse, garden, vineyard, kraal or other enclosed place, shall be deemed to be an idle and disorderly person." On conviction such a person is liable to a fine of £100, in default of which, penalties provided in Section 1 above apply. These penalties need not apply to first offenders, who may be assigned as labourers to public works, municipalities or private persons.

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<sup>2</sup> U.N. Document A/AC 109/L.290.

<sup>3</sup> Official Yearbook of the Union of South Africa and of Basutoland, Bechuanaland and Protectorate of Swaziland, No. 29, 1956-7.

As has already been mentioned, official permission is required in order to stay for more than 72 hours in an urban area. The period of validity of a permit to take up employment is limited to the duration of the employment. A permit to seek work may be granted for not less than seven days and not more than fourteen days, unless employment is found. However, no permit may be issued for the purposes of employment "except in accordance with regulations which the Administration may issue for the purposes of maintaining a labour quota for a particular urban area," (Section 10 (ii), Natives (Urban Areas) Proclamation).

Every local urban authority is required to submit to the Administrator whenever required, a return showing, *inter alia*, "(d) the number and sexes of natives which, in the opinion of the local authority, is necessary to supply the reasonable labour requirements of the urban area" and "(e) the number and sexes of the natives which the urban local authority considers not necessary for the purposes mentioned in paragraph (d) and desires to have removed," (Section 24). Those not required may be removed where the Administrator "is satisfied that the number of natives within that area is in excess of the reasonable labour requirements of that area," (Section 25).

Similarly, the Regulations for the Registration, Control and Protection of Natives in Proclaimed Areas provide that permits to remain in the area are subject to the same requirements as to labour quotas. No "male native (unless exempted) who is not under a contract of service may remain in the proclaimed area for more than 14 days without a prescribed certificate of registration," (Regulation 4). Upon termination of a contract or after discharge from prison, every male native in a proclaimed area (other than those born or residing permanently within, or otherwise exempted) must report to the competent authority or official within one day. Breaches of contracts of employment are criminal offences.

### **Recruitment, Conditions of Work and Mines**

The system of recruitment of African workers operating in South-West Africa today is unique in its organised and efficient application of conditions which amount to slavery. Workers are recruited, under contract, in the Tribal Areas by the South African Government-sponsored South-West African Native Labour Association (SWANLA), which classifies the male

population into working categories A, B and C, suitable respectively for work in the mines, on land and on the agricultural and livestock-breeding farms of the Europeans. These letters are reproduced on the clothes of the workers, which they have to provide for themselves. Once having been chosen by SWANLA contractors, the men are transported to their areas of work. The workers have to pay a government tax on each contract of employment. There is no other way of obtaining work or earning a wage except through the SWANLA contract-system, which provides the employers in the mines and farms with the amount and quality of labour that they require. Once under contract, the worker may not leave the area of employment and may not cancel the contract. No African trade unions are recognised, the workers are excluded from all systems of collective bargaining and strikes are a criminal offence.

The general recruitment period is up to 18 months to 2 years. The initial term of contract for an African worker in the mines is 309 working days with a minimum wage of 1s.9d. (Sterling) for each of the first 155 days and 2s. for the remaining time. The white miners in 1962 were earning an average income of £1,250 per annum. While in the mines, the African worker comes under the Proclamation for the Control of Natives in Mines 1917 (as amended) which authorises, *inter alia*, supervision of the conditions of work, the arrest of offenders, and the setting up of compounds to house 50 or more labourers. On expiry of their contracts, the workers have to return to the Reserves and may only leave again on subsequent recruitment. Their families are not allowed to accompany them, and there exist no obligations on the employers to provide for family allowances or to make provision for the families of those who are injured at work. The South African Government limits the amount of money that may be saved by a worker to £150 over a period of two years. Labourers are not recruited again for the same work in the same area or factory in order that they may not acquire skills. Some of the larger mining companies, such as the Consolidated Diamond Mines of South-West Africa, a subsidiary of De Beers Consolidated Mines, and the Tsumeb Corporation Ltd. (USA) are represented on the Board of Directors of SWANLA.<sup>4</sup>

South-West Africa is unique in the extent to which she is dependent on foreign markets and in the amount of earnings

<sup>4</sup> U.N. Document A/6300/Add.2.

(in 1962, 32 % of the gross domestic product) from domestic production that she allows to pass to non-residents. Furthermore, this development of her own resources is based on the rapid exploitation of wasting assets, some of which, for example the known diamond and other mineral deposits, are likely to be exhausted in 20 to 25 years.<sup>5</sup> South Africa herself derives direct benefit from the South-West African mineral and other products, in the way of concession payments, import duties and taxes from farm produce. From 1943-1962, payments to the South African Treasury from the Consolidated Diamond Mines alone amounted to £50 million.<sup>6</sup>

### **Land Distribution**

The land distribution figures show that the Africans, who outnumber the whites by 7 to 1, own only half of the total amount owned by the latter. According to the South African Government, on virtually none of the land belonging to the Africans have the people been able to achieve more than a subsistence economy. The per capita income of the white settlers in the Police Zone is £176 a year; while for most of the Africans outside the zone, it is £8.10.0 a year. The African is forced by the poor quality of his land and by the perennial problem of soil-erosion (which problem has always been neglected by the Administration) to become an economic commodity that can be sold to the European industries. This infra-structure is now to be made substantially rigid by the implementation of the recommendations of the Odendaal Commission of Enquiry. Under this scheme, the African population is to be up-rooted, to form 12 artificial territorial and ethnic groupings or "homelands", there to develop separately, each according to its own unchangeable racial talents and resources. The bulk of the habitable land is to be reserved, together with all the diamond and most of the other mines, for the white settlers, who — Boer, German and English — will remain together as before. The demarcations of these homelands are carefully drawn around mineral deposits, sea ports, transportation and communication facilities and urban areas. The Odendaal scheme has been

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<sup>5</sup> U.N. Document A/AC 109/L.290.

<sup>6</sup> See U.N. Statistical Yearbooks and South African Financial Yearbooks.

severely criticised in the United Nations, especially by the Special Committee of Twenty-Four (dealing with the granting of independence to colonial countries), which has said that the ultimate effect of this balkanisation of South-West Africa will lead "to the partition and disintegration of the Territory and its absorption into South Africa". Already under this plan, the first of the "Bantustans" has been created out of the Ovamboland Reserve in the North, where the majority of the Africans in the territory live. This reserve has been sealed off from the outside world; at least 10 % of the male population is always absent, and at least two out of every five able-bodied men are contracted away from their homes and families to work for the government or foreign employers.

### Education and Social Conditions

The educational system in South-West Africa is a clear expression of South Africa's racial policy. The education of the white child prepares him for his dominating role as the ruler; while that of the African child is deliberately designed to teach him nothing that will be of value to him as an independent human spirit, but to prepare him to accept his servile condition. In 1962 only 0.3 % of the African children were in secondary classes, which never go beyond Standard VI. Of those at school, 90 % were in the four lower primary classes and 68 % were in the sub-standard streams. No technical instruction is available and university education inside South-West Africa for the African is unknown. If the recommendations of the Odendaal Commission are carried out, the cost of education will have to be borne separately by each community, thus hitting hardest at those who are most in need of education and who are also the least able, under the system, to pay for it. The policy is designed to keep the African child educationally crippled in a way as yet immeasurable.<sup>7</sup> During 1964-65, the allocation of money for education was authorised as follows :

White children .....	R 3,315,966
African children .....	R 799,534
Basters and other Coloureds ....	R 673,912

(1 Rand = 10 shillings sterling.)

<sup>7</sup> See "Education and Apartheid; Policy and Results", by Marcia McGill, Specialist Paper submitted to the International Conference on South-West Africa, Oxford, March 1966.

The Government of South Africa, although regularly asked to do so by the UN Trusteeship Council, gives no figures for the mortality rates and other statistics on health and hospital conditions for the African population of South-West Africa. Information, however, can be gathered from other sources. "In the case of most non-white population groups who adhere to their traditional way of life, no reference can be made to organised welfare services, since such organisations do not exist," (Odendaal Report, paragraph 916). In the Ovamboland Reserve there are four doctors for a population of about 239,000 people. The rate of infant mortality in South-West Africa is not known, but some idea can perhaps be gathered by looking at the figures given for the African population within South Africa itself. The infant mortality rate of the African children in South Africa is one of the highest in the world, 400 per 1,000; while that of the white children of South Africa is one of the lowest, 27 per 1,000 (Nigeria — 70 per 1,000; Ghana — 90 per 1,000). In eight major urban areas alone, some 10,000 non-white infants die each year of gastro-enteritis caused by malnutrition. The annual morbidity rate of tuberculosis among African children under 5 years of age is 9,469; for white children it is 161. The total mortality rate for all cases in the age group 1 to 4 years shows that the Bantu (i.e. African) children are dying at 25 times and coloured children at 15 times the rate of white children.<sup>8</sup>

With each day that passes, the South African Government is tightening its strangle-hold on South-West Africa, depriving its people of their wealth and their right and ability to develop into a free and self-supporting nation. South Africa is building up its own military strength within the country, and is rapidly implementing measures which will lead to the all but official annexation of South-West Africa. In utter violation of the Mandate, South Africa has constructed what is believed by the UN General Assembly to be a military air base in the Eastern Caprivi Strip, a Tribal Reserve on the borders of Angola, Zambia and Southern Rhodesia. The internal system of arbitrary rule has been extended to South-West Africa, and a wide range of prohibitions and coercive measures have been increasingly ap-

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<sup>8</sup> See Working Paper No. 1/66, July 1966: Extracts from the Reports and Documents of the UN Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa, pp. 51-52.

plied. The Suppression of Communism Act 1950, The Criminal Procedure Amendment Act 1965 (containing the "180-day clause"), The Official Secrets Amendment Act 1965, The Police Amendment Act 1965 (the police force in South-West Africa, including the Special Branch, is part of the South African Police Force) form part of the security legislation of South Africa now in force in South-West Africa. There exist no constitutional or legal channels through which the African population may express its legitimate grievances.

At the International Conference on South-West Africa, held at Oxford in March 1966, it was said that "the inability of the U.N. to solve the South-West African problem could, if allowed to continue, severely damage the world body as an effective political instrument in support of international peace and security. Such inaction would erode respect for the United Nations and the International Court of Justice. It would dangerously undermine the confidence of peoples all over the world in the principles of international authority and commitment. To delay is to fail."

To fail in South-West Africa now, and ultimately in South Africa itself is to be accessory to the blatant plunder of a land, to perpetuate the pain and degradation of its people and to rob its future generations of their inherent dignity and worth as human beings.

## ZANZIBAR SINCE THE REVOLUTION

### 1. Recent History

Zanzibar, consisting of the islands of Zanzibar and Pemba off the east coast of Africa, and now forming part of the United Republic of Tanzania, became an independent state within the British Commonwealth on December 10, 1963, with the Sultan as head of state and a coalition government of the Zanzibar National Party (Z.N.P.) and the Zanzibar and Pemba People's Party (Z.P.P.P.). Although these two parties had won eighteen seats in Parliament in the elections held in July 1963, they received only 46% of the popular vote, 54% of the electorate supporting the Afro-Shirazi Party (A.S.P.) which formed the opposition with 13 seats. The coalition parties, while professing non-racialism, were in fact dominated by the Arabs who, while forming only about 17% of the population, enjoyed a position of economic and political superiority over the African majority. The A.S.P., on the other hand, directed its appeal to the African population and campaigned against Arab dominance. Of the total population of around 290,000, about 240,000 are African, 40,000 Arab and 18,000 Indian.

African resentment at the superior position of the Arabs, and at an Arab-dominated government in power on a minority vote came to a head on January 12, 1964, when a revolt led by John Okello, an African from the mainland, succeeded in overthrowing the government and chasing the Sultan into exile. The revolution was supported by the A.S.P., led by Sheikh Karuma, and Umma Party (a left-wing party which had been declared illegal a week earlier) led by Mohammed Abdul Rahman Babu. The People's Republic of Zanzibar was proclaimed, and in the new government, headed by a Revolutionary Council, the former became President and the latter Minister of Foreign Affairs.

It is probable that the true picture of events immediately following on the Zanzibar revolution will never be known. All that is certain is that a large-scale campaign was immediately mounted against the Arab population, which was regarded as hostile to the new régime. Arab houses were searched, Arab



men and youths were arrested and detained in hundreds, and unknown numbers of Arabs met their death. A government source gave totals of 80 to 100 dead, and 1,000 detainees, while other sources reported a mass purge with between 3,000 and 4,000 dead in a systematic slaughter of Arab families, and 2,500 detainees. In addition, Arab property was confiscated and many Arabs, especially women and children, became refugees in their own country, to be looked after in camps by the Red Cross. In the three months following the revolution, at least 2,000 Arabs were deported to the Arabian Peninsula.

All journalists on the island at the time of the revolution were first placed under house arrest, and subsequently required to leave, their notes and films being confiscated. Since then, virtually no foreign journalists have been allowed to visit Zanzibar, and sources of reliable news as to what happens there have been very few.

It will be recalled that, after Tanganyika had helped in the restoration of law and order in January 1964 by sending 300 policemen to Zanzibar, in April of the same year Tanganyika and Zanzibar united to form the United Republic of Tanzania with Julius Nyerere as President and Sheikh Karume as First Vice-President of the United Republic and President of Zanzibar. Little has in practice been done on the Zanzibar side to implement the Union as yet. Tanganyikans still do not, for example, have a free access to Zanzibar, and entry permits issued by the Minister of Home Affairs in Dar-es-Salaam are not necessarily accepted by the immigration authorities in Zanzibar. The union, therefore, has apparently done little to modify developments in Zanzibar, or to open it up for outside visitors.

## **2. A One-Party State**

One of the first acts of the Revolutionary Council was to ban the Z.N.P. and the Z.P.P.P. Three weeks later the Umma Party merged with the A.S.P. and a one-party system was introduced.

Decrees passed in March 1964 provided that all members of the Cabinet would be members of the Revolutionary Council which would also be the legislative authority. Since then, legislation has continued to be by decree of the Revolutionary Council, and representative institutions have disappeared from Zanzibar's

political system. By the Constitution of the United Republic, Zanzibar is represented in the National Assembly by members of the Revolutionary Council appointed by the President of the United Republic and by other members appointed by the President of the United Republic with the agreement of the President of Zanzibar. These appointed members sit as sole representatives of Zanzibar together with the elected representatives of the Tanganyikan mainland and the provisions for elections in the Constitution relate solely to Tanganyika.

In May 1965 a new constitution for the A.S.P. was adopted with the approval of the Revolutionary Council. Under this constitution the Party is the supreme authority in the country, over and above the Revolutionary Council, and Ministers are responsible not to the Government but to the Party whose servants they are. The supreme organ of the Party is its Central Committee consisting of ex officio members, representatives of other organizations and members nominated by the President. The constitution also provides for the establishment of a number of Party committees to take over control of the various sectors of public life, such as the economy, education, finance, security, etc. Trade union affairs were also subjected to a Party Committee and the Federation of Revolutionary Trades Unions and its affiliates were dissolved.

The results of these innovations is to place the A.S.P. in a position of supremacy unrivalled by that of any other single party. The whole governmental machine is built on and around the Party, and there appears to be no organ through which the voice of the citizen can be heard other than the Party institutions. The Party has not only been made the sole party: it has been consecrated as the organ of government, with power to dictate to the Revolutionary Council, the body which exercises legislative as well as executive powers; and matters normally entrusted to ministries, headed by a minister responsible to the elected representatives of the people in Parliament, are placed under the control of party committees.

### **3. Preventive Detention**

Preventive detention was introduced by a decree published on March 2, 1964 by provisions which do not provide the safeguards considered necessary, even in a state of emergency, to ensure that the power of preventive detention is not abused.

A detention order may be made by the President, for example, where it is deemed necessary to prevent any person from acting in a manner prejudicial to the defence and security of public order. The making of an order is entirely in the President's discretion, for his opinion that it is necessary is not open to any form of challenge: no order made under the decree can be questioned by any Court, and orders may be made for an indefinite period of time.

These sweeping powers were not taken merely for the period of unrest following the revolution, but appear to have been retained as part of the permanent legislation of Zanzibar. It is difficult to determine to what extent they have been used. On May 1, 1964, it was announced that over 1,000 persons detained during the revolution had been released, leaving only 160 political detainees still in prison. On September 6, 1964, a further 112 detainees were released, all members of the former government parties. While these releases appear to have been made with reasonable promptitude, nine ministers in the former government are still in detention. Periodic efforts to secure their release have been in vain. On January 13, 1967, 24 political detainees held since the Revolution were released. The present number of detainees cannot be ascertained with certainty, though further arrests are reported to have been made over the last three years.

#### **4. Political trials**

On two occasions, in November 1964 and May 1966, reports reached the outside world of waves of arrests following the discovery of plots to organise a counter-revolution. In each case allegations of wholesale arrests, interrogation and ill-treatment were made, allegations which it is impossible to substantiate or disprove in view of the Government's continued rigid censorship and refusal of entry to foreign correspondents. After the November 1964 arrests five men were sentenced to death and others to terms of five or ten years' imprisonment on charges of subversion arising out of an alleged Z.N.P. plot. They, like most of the persons arrested with them (alleged to be about 300 in all) appear to have been most, if not all, Arabs. Of the 62 persons who he admitted were detained, President Karume said that some, who had been found to be "misguided" would be released. After the May 1966 arrests, five people were

said to have been shot by government forces in Zanzibar and another five to have been buried alive on Pemba, but no confirmation of these reports has been possible.

While anti-government activity is thus pursued with relentless vigour, the outcome of an incident in September 1964 indicated less enthusiasm in the pursuit of offenders against the Arab community. During a religious service in a mosque, a number of intruders suddenly appeared, one of whom opened fire killing five people, including a boy of nine, and wounding at least nine others. While Vice-President Karume stated that he had ordered complete and exhaustive inquiries and that a man had been held for questioning, nothing further has been published as a result of this violent and distressing incident. It is said that the attackers acted in the belief that a political meeting was taking place, and the allegation is made that they are being protected by the party in power. As so often with reports emanating from Zanzibar, it is impossible to ascertain the truth. The incident probably indicates, however, the precarious and under-privileged position in which the Arab population is still held. To what extent this is a racial attitude, or whether it arises rather from their position as the formerly dominant class and thus the natural enemies of a socialist society such as now exists in Zanzibar, it is impossible to assess.

## **5. Establishment of Special Court**

In October 1966 by presidential decree the Special Court was established, with exclusive criminal jurisdiction in the following cases :

- (a) political offences committed by any person ;
- (b) offences committed by persons detained under the provisions of the Preventive Detention Decree, 1964 ;
- (c) offences involving theft of government property or the property of any public enterprise ;
- (d) offences involving damage caused to Government property or the property of any public enterprise.

The Court has powers to impose sentences of death, imprisonment, corporal punishment and fine.

The structure, powers and procedure of the Special Court are open to a number of very serious objections in that they incorporate features absolutely inconsistent with the principles

of the Rule of Law and the guarantees necessary to ensure a fair trial. In the first place, its members are appointed by the President ; no provision is made for their tenure of office, security of tenure or dismissal. Secondly, it sits in private : no member of the public may have access to any place where it is sitting. Thirdly, an accused appearing before it is not allowed to be represented by defence counsel ; similarly, no public prosecutor may appear on the other side. Fourthly, it is not bound by the Criminal Procedure Decree but lays down its own practice and procedure. Fifthly, the only appeal against its sentences is to the President. Finally, the decree as published was made retroactive to May 1, 1966. The apparent reason for this last provision was the desire to provide a cloak of legality for sentences which had been imposed by the Revolutionary Council, presumably those referred to above in connection with the May 1966 arrests.

On December 3, 1966, before the Special Court had begun to sit, it was announced that the decree by which it was established had been suspended, and that it would only become effective on a day to be appointed by the President. This welcome step suggests that the very widespread and well-founded criticism to which the decree gave rise may have inspired second thoughts on the part of the Government of Zanzibar. At all events it is to be earnestly hoped that the decree will not now be brought into operation, at least without modification of its most offensive provisions.

### **Conclusion**

The almost complete blanket of silence which has been drawn over events in Zanzibar since the revolution makes any valid assessment of the true situation there impossible. Certain conclusions can nevertheless be drawn from the meagre information available. In the first place it is indefensible that, over three years after the revolution, there should be no means by which the population can participate in the affairs of their country. Not even lip-service is paid to the principle of representative government. Legislative power vested in the Revolutionary Council as an interim measure by a decree of March 1964, the Legislative Powers Law, continues to be exercised by presidential decree. Representation of Zanzibar in the Parliament of the United Republic continues to be by appointed members. It is

time that the Government of Zanzibar gave urgent attention to the reintroduction of representative institutions which will permit the people as a whole to have a voice in the running of their country and to express their views on what is done in their name and on their behalf.

A second measure which the Government of Zanzibar would be well advised to undertake would be the re-opening of its territory to foreign visitors and in particular to representatives of the press. The absence of reliable information about developments on the island for so long has inevitably given rise to rumours, some of which are probably more harmful to Zanzibar than the truth. Constructive criticism, the exposure of injustice and abuses, and comparison with other countries, as well as a true appreciation of achievements, can, and if accepted in the right spirit, often do have a beneficial effect upon a government anxious to promote the welfare of its people within the social structure it has chosen, and it is to be hoped that there are no reasons why the Government of Zanzibar should continue to shield itself from such influences.

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# ICJ NEWS

## INTERNATIONAL CO-OPERATION

### UNITED NATIONS

The ICJ Secretariat closely followed the work of the last Session of the UN Commission on Human Rights, held in Geneva from February 20 to March 23, 1967, at which several constructive resolutions were adopted. In particular, the Commission adopted (by 20 votes for, 7 against, 2 abstentions) a Resolution calling for the appointment of a United Nations High Commissioner for Human Rights. This project, which has received continuous and vigorous support from the ICJ, is thus entering into its final procedural phase. It has now been put on the agenda for the meeting of the Economic and Social Council in New York, and, if adopted, will be submitted to the General Assembly for final decision, next autumn. The present draft incorporates the recommendations put forward by the Working Party which had been asked by the UN to make a thorough examination of its implications. It is to be hoped that the U.N. Member States will adopt the same constructive attitude as the Commission. Positive evidence of their willingness to attain their common ideal, stated in the Universal Declaration, is all the more expected of them, in that they will be debating the matter on the eve of International Human Rights Year.

Mr. Seán MacBride, the Secretary-General of the ICJ, took part in a seminar at Kingston (Jamaica), held from April 25 to May 8, to discuss the effective implementation of civil and political rights on the national level. During the seminar, he made an important statement, in particular emphasizing the key role of an independent Judiciary in giving the citizen scope for the full and free exercise of his rights.

### HUMAN RIGHTS YEAR

The International Committee of N.G.O.'s (Non-governmental Organisations) for Human Rights Year met, as arranged, in Geneva on March 15; representatives of more than 50 organisations took part. The Committee discussed several practical questions concerned with ways of co-ordinating their activities; it also studied the various possibilities for organizing an N.G.O. conference, to take place either before or after the U.N. intergovernmental conference, which is to be held in the spring of 1968. The next meeting of the Committee will take place in Geneva, this July.

## **INTERNATIONAL DAY FOR THE ELIMINATION OF RACIAL DISCRIMINATION**

The ICJ warmly supported the U.N. initiative to declare March 21 each year "International Day for the Elimination of Racial Discrimination". It published on March 21, 1967, the first of these International Days, a statement in which it re-affirmed its opinion that Law ceases to be founded on Justice, when it provides for racial discrimination, and invited all jurists who support its action to be ever on guard against the introduction of racist legislation or practices into their countries, or, failing this, to bring about the necessary reforms.

## **LATIN-AMERICAN PARLIAMENT**

The Latin-American Parliament held its second Ordinary Annual Assembly in Montevideo (Uruguay) from April 26-29. The International Commission of Jurists, which was invited to send observers, was represented in Montevideo by the distinguished Argentine jurist, Dr. Alicia Justo of Buenos Aires.

## **NATIONAL SECTIONS**

### **GERMANY**

As part of a programme of co-operation between the Federal Minister of Justice and the German National Section of the ICJ, a series of lectures were organised, on a national scale, dealing with questions of the Rule of Law. Dr. Heinrich Schrader, Secretary-General of the German Section, well-known for his achievements in the field of Legal Science, gave 21 lectures in all the States of the Federal Republic to audiences from various professional groups, and from legal and university circles.

### **AUSTRIA**

The Austrian National Section is now having discussions with Polish and Czechoslovak jurists, with a view to their deciding on establishing a programme of exchange visits and study-groups for next year.

### **FRANCE**

*Libre Justice*, the French National Section of the ICJ, organized a particularly interesting Colloquium in Paris, on February 17 and 18, on "Professional Confidence before the Law". Around sixty lawyers took part, from France, Britain and Germany. Three subjects were discussed: Professional Confidence of Lawyers (the Rapporteurs being Judge Simon and Maître Marcel Roger), Professional Confidence of Journalists (Rapporteurs: Professor Léauté and the well-known Editor, Mr. Pierre



## NEWS

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Lazareff) ; and the Professional Confidence of the Police (Rapporteurs : Professor Vouin and Mr. Jean Népote, Secretary-General of Interpol). The discussions were most lively and fruitful ; *Libre Justice* will publish an account of them in its next Bulletin.

### SWEDEN

The Swedish National Section, in collaboration with the Geneva Secretariat, organized a conference of jurists from the Nordic countries in Stockholm on May 22 and 23. The subject of the conference was the Right to Privacy ; the rapporteur was Professor Stig Strömholm of the University of Upsala. The underlying purpose of this Conference was the exploration of a field which up to now has been, on the whole, vague and undefined, and consequently vulnerable to serious abuse. Its main purpose was to define the various rights which attach to the personality of the individual, to delimit the areas which lie exclusively within his private life, and to ascertain the general principles which should apply in order that these rights may be respected, protected and exercised to satisfy the demands of present-day life. The Nordic countries are among the most advanced, and consequently in the best position to formulate rules which might gain the status of International Standards in this field.

Although the Stockholm Conference was primarily intended for jurists from Denmark, Iceland, Finland, Norway and Sweden, it has had a much wider impact. This is due not only to its subject-matter of universal interest, but also to the fact that participants came from countries outside Scandinavia. All the European National Sections of the ICJ were invited to take part, and several personalities from North and South America and Asia were also present ; there were besides, representatives from the main International Organizations. An account of this conference will be printed in the next issue of our Bulletin.

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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:

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