

FOR THE RULE
OF LAW

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

CONTENTS

EUROPEAN CONFERENCE OF JURISTS	1
HAITI AND ASYLUM	13
NON-SELF-GOVERNING TERRITORIES	17
INTERNATIONAL NGO CONFERENCE ON HUMAN RIGHTS	35
ICJ NEWS	46

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THE REVIEW

TO FULFILL THE NEEDS of our Readers today, it is proposed to combine our existing publications, the *Bulletin* and the *Journal*, into one consolidated quarterly publication, "The Review of the International Commission of Jurists", or for short "The Review". The first issue will appear in March 1969: it will be published in English, French, German and Spanish.

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EUROPEAN CONFERENCE OF JURISTS ON THE INDIVIDUAL AND THE STATE

To mark International Year for Human Rights, the European Sections of the International Commission of Jurists organized a Conference on the Individual and the State. This Conference, which considered the essential legal elements to ensure the protection of the individual, was held at the Council of Europe, Strasbourg, on 26th and 27th October 1968. It was the second ICJ Conference held in Human Rights Year, the first being the Bangalore Conference on the Right to Freedom of Movement held in January, 1968.

The Conference was opened by the Honourable Mr. Justice T. S. Fernando, President of the International Commission of Jurists, and presided over by the Honourable René Mayer, President of *Libre Justice* and former Prime Minister of France.

The Conference was attended by one hundred and thirty participants from Austria, Belgium, Denmark, Finland, France, Federal Republic of Germany, Ireland, Italy, Netherlands, Norway, Portugal, Spain, Sweden, Turkey, United Kingdom, and eight non-European invitees and thirteen observers from international organizations.

The Vice-Presidents of the Conference were :

The Honourable Per Federspiel

(Member of the Danish Parliament, former President of the Consultative Assembly of the Council of Europe)

Dr Wilhelm Martens

(former President of a Provincial Court of Appeal of the Federal Republic of Germany)

Professor Mattia Persiani

(Professor of Jurisprudence, University of Sassari, Italy)

The Honourable Samuel Silkin, Q.C., M.P.

(Chairman of the Legal Committee of the Council of Europe)

Judge Gustaf Petren, Deputy Ombudsman of Sweden, acted as Rapporteur and Dr Rudolf Machacek, Secretary-General of the Austrian Commission of Jurists, as Secretary of the Conference. Mr Pierre Juvigny, Maître des Requêtes au Conseil d'Etat, and Mr Norman S. Marsh, Q.C., Member of the United Kingdom Law Commission, were Special Consultants.

The Conference was followed by a meeting of the European National Sections, which was also held at the Council of Europe, on the afternoon of 27th October.

The Conference had referred to the meeting of European Sections the formulation of the text of a Resolution on Czechoslovakia. The text of the Resolution, as adopted by the meeting, is given immediately below and is followed by the Conclusions and General Recommendations of the Conference itself.

RESOLUTION ON CZECHOSLOVAKIA

This European Conference of Jurists,

ENDORSES the Statement of the International Commission of Jurists issued on the 21st August 1968 condemning the invasion of Czechoslovakia as a clear and indefensible violation of the Charter of the United Nations and of the rules of International Law and as an attempt to impose by military force political, economic and military control over a free sovereign people ;

ASSERTS that the right of self-determination should be respected in regard to all nations, old and new, in all continents, without discrimination ;

REJECTS as indefensible the pressures and intimidation used to deprive the Czechoslovak people of the management of their own policies and affairs ;

INVITES the International Commission of Jurists to continue the study of the legal issues involved and to publish its Report.

CONCLUSIONS OF THE CONFERENCE

Preamble

WHEREAS the Universal Declaration of Human Rights recites that it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law, and enumerates the human rights and fundamental freedoms which States have undertaken to promote and observe.

AND WHEREAS by the European Convention on Human Rights (1950) the Member States resolve to take the first steps for the collective enforcement of certain of the Rights set forth in the Universal Declaration and guarantee the enjoyment of the rights and freedoms set forth in the European Convention,

AND WHEREAS by Article 2 paragraph 1 of the International Covenant on Civil and Political Rights (1966) each State party to the Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

AND WHEREAS by Article 2 paragraph 2 each State party to the said Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognised in the Covenant,

RECALLING that the International Commission of Jurists has, at its Congress of New Delhi (1959), stressed that it is a function of the legislature in a free society under the Rule of Law to endeavour to give full effect to the principles enunciated in the Universal Declaration of Human Rights and to create and maintain the conditions which will uphold the dignity of man as an individual, which dignity requires the recognition of his fundamental rights,

AND RECALLING that the International Commission of Jurists has, at the Congress of Rio de Janeiro (1962) on 'Executive Action and the Rule of Law', concluded that the Rule of Law depends upon effective government capable of maintaining order and promoting social and economic development on the one hand and upon adequate safeguards against the abuse of State power on the other,

AND RECALLING that the Assembly for Human Rights held at Montreal in March 1968 and the United Nations International Conference on Human Rights held at Teheran in April/May 1968 recognised that many aspects of modern technological evolution presented new dangers to human rights and to human dignity and recommended that a study be undertaken in this field,

AND REALISING that the ever expanding scope of State regulation resulting from increasing economic, social and scientific activity necessitates a more complete and effective system of protection for the individual,

AND REALISING that one of the primary responsibilities of the State towards the individual is to provide adequate and effective mechanisms for the protection and furtherance of his fundamental rights and freedoms ;

NOW THEREFORE this European Conference of Jurists adopts the following Conclusions :

Part I: Essential Safeguards

1. Guarantee of Rights

Fundamental human rights and freedoms should be guaranteed by law, preferably by a written constitution.

2. Separation of Powers

The principle of separation of the legislative, executive and judicial powers of the State should be respected.

3. Independence of the Judiciary

The independence of the judiciary should be secured. Such independence implies freedom from interference by the executive and legislature and freedom to interpret and apply the laws

of the land in accordance with the Rule of Law and the fundamental principles of justice. In order to ensure the independence of judges it is essential that their appointment should be free from political interference or patronage; they should enjoy full security of tenure and should receive adequate remuneration which cannot be altered to their disadvantage during their term of office.

(For more detailed requirements see New Delhi Conclusions on the Judiciary and the Legal Profession under the Rule of Law).

4. *Availability of Remedy*

Remedies should be provided by law against infringements of the rights of the individual by State organs, public authorities or individuals.

5. *Speed of Remedy*

Judicial process should provide for the disposal of cases without undue delay.

Civil and criminal proceedings should be free from unnecessary procedural difficulties and technicalities, which result in undue expense or delay and present other obstacles to the speedy vindication of rights. To obviate delays it is essential that there should be an adequate number of judges and court officials.

6. *Fair Hearing*

There should be fairness and objectivity in judicial and quasi-judicial proceedings. This entails not only an objective tribunal, giving each party a fair and equal opportunity to present his case, but also the existence of an adequate system of legal aid.

7. *Judicial Appeal and Review*

There should be an effective right of appeal from the decisions of a lower court to at least one higher court. Administrative acts which may injuriously affect the rights of the individual should be subject to judicial review.

8. *Availability of Evidence*

The defence in a criminal case, a party to a civil action and a party before an administrative tribunal should have access to all oral and documentary evidence relevant to his case or to the matter under investigation, and effective machinery for com-

elling the attendance of witnesses and for ensuring the production of documents is essential. In any cause in which the State or a public authority is involved, the State should not be allowed to prevent the production of relevant documents or other evidence unless the court comes to the conclusion that the security of the State, or the fair administration of justice, would be seriously prejudiced by such production.

9. *Safeguards against Retroactive Legislation*

Constitutional or legal safeguards should ensure that the rights of an individual are never adversely affected by retroactive legislation or regulations.

10. *Provision against Double Jeopardy*

Due regard should be had for the principle, *Nemo debet bis vexari pro eadem causa*.

Part II: Administrative Acts

11. *Legal Basis*

Public authorities may only make decisions that are based on existing law, and in furtherance of the object envisaged by the law under which they are made.

12. *Prior Consultation*

Where an executive or administrative order ultimately affects the rights or interests of individuals, the public authority concerned should consult the organisations or groups interested in the measure contemplated and give to interested individuals a reasonable opportunity to present their views.

13. *Motivation for Order*

When an administrative order is made which affects or is likely to affect the rights of the individual, the reasons for the order should be fully stated.

14. *Concept of State Responsibility*

The State should be liable for damage arising from the negligence or wrongful acts of its executive and other organs. Under the

concept of State responsibility, the State should also be liable in principle for damage resulting from those of its operations which cast upon an individual a burden which is unreasonable in relation to the rest of society, particularly when his ability to earn his livelihood, his family rights or his property rights are adversely affected.

15. *Minimum Requirements for Quasi-Judicial Acts*

Save in periods of genuine public emergency, where an executive or administrative body has a discretionary power to make orders amounting to an adjudication affecting the rights or interests of an individual, the following requirements should be observed:

- (a) There should be adequate notice to the interested parties of the contemplated measures and the reasons therefor.
- (b) The interested parties should have an adequate opportunity to prepare their case, including the right of access to all relevant data.
- (c) The interested parties should be given the right to be heard, to present evidence and to meet opposing arguments and evidence.
- (d) The interested parties should be given the right to be represented by counsel or other qualified person.
- (e) Notice of the decisions reached and of the reasons therefor should be communicated without undue delay to the interested parties.

Part III: Extra-Judicial Protection

16. *Administrative Protection*

Consideration should be given to the provision of simple, inexpensive extra-judicial remedies within the administration itself for correcting administrative errors or abuses. Any such extra-judicial remedies should be capable of being grafted upon the existing legal and political systems.

17. *Ombudsman System*

The institution of 'Ombudsman', now operating in Denmark, England, Finland, Guyana, New Zealand, Norway, Sweden and

Tanzania, has proved of considerable assistance both in protecting the rights of the individual and in achieving a more efficient administration. An institution of this or a similar nature would be a valuable adjunct to the existing judicial safeguards in any jurisdiction, especially in countries which do not have a system of Administrative Courts.

Part IV: Control over Assumption of Emergency Powers

18. Restriction on Assumption of Emergency Powers

The restrictions on the assumption and exercise of emergency powers, as set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the United Nations Covenant on Civil and Political Rights, should be the minimum adopted in any State. Steps should be taken by every State to have at least these restrictions embodied in its basic law.

19. Judicial Control

There should be a system of judicial control over the assumption and exercise of emergency powers by the executive with a view to

- (a) determining whether the circumstances have arisen and the conditions have been fulfilled under which the powers may be exercised ;
- (b) limiting the extent to which such emergency powers may be exercised in derogation of the fundamental rights of the individual ; and
- (c) giving the courts a supervisory jurisdiction to ensure that emergency powers are used only for the specific purpose for which they were granted, and that they are not exceeded. The courts should have the power to grant effective remedies in cases of misuse or abuse of emergency powers.

20. Confirmation by Legislature

Wherever the executive power is legally authorised to declare a state of emergency, the declaration should be compulsorily referred to the legislature for confirmation within the shortest possible time. The legislature should retain control over the duration of emergency periods, which should only be extended

from time to time when the legislature is satisfied that extension is necessary.

21. *Periodic Legislative Review*

An obligation should be imposed upon the executive power to submit its programme and procedures to legislative review from time to time during an emergency.

22. *Safeguards against Continuing Arbitrary Confinement*

During periods of public emergency, legislation authorising preventive detention should contain safeguards for the individual against continuing arbitrary confinement by requiring in each case a prompt hearing and decision upon the need and justification for the detention. Such decision should always be subject to judicial review.

GENERAL RECOMMENDATIONS OF THE CONFERENCE

The principal task of the Conference was to set out the specific legal elements necessary to ensure the protection of the individual; these are embodied in the Conclusions of the Conference. Realising, however, that the proper safeguard of human rights cannot be assured solely by domestic legal remedies and that a proper political, social and economic structure is an essential prerequisite for the effective protection of human rights, the Conference makes the following General Recommendations :

1. *Economic and Social Rights*

The establishment and observance of standards that recognise and foster not only the political rights of the individual but also his economic, social and cultural rights and security — in accordance with the European Social Charter (1961) and the International Covenant on Economic, Social and Cultural Rights (1966) — is one of the first essentials.

2. *Public Opinion*

A further essential is a society of citizens conscious of their rights, resolute in their support of the institutions designed to safeguard them, and vigilant against erosion of the right to receive and impart information, the rights of free expression, assembly and petition and civil and political rights in general.

3. *Education*

It follows that there must be an adequate scheme of education in principles of human rights which utilises to the full all modern means of mass communication such as radio, television, films, newspapers and publications. Further, human rights should figure prominently in the curricula of schools and in the education of public officers.

4. *Free Press*

In order to ensure that the public is conscious of its rights and maintains its interest in human rights' problems, it is essential that there should also exist a free press, which not only truly represents different shades of public opinion, but also provides a medium for the expression of different points of view and of general or individual grievances.

5. *Elections*

A system of periodic and genuine elections on the basis of universal and equal suffrage by secret ballot must form the basis of government authority.

6. *Periodic Review*

To ensure that laws and procedures conform to the provisions of the Universal Declaration of Human Rights, there should be a system of periodic review of legislation. A competent body should be authorised by the legislature to examine existing legislation and formulate appropriate suggestions to better secure the rights of the individual and their protection.

7. *Advisory Institutions*

A valuable adjunct to State organs of protection would be an institution or institutions to examine the causes of infringements of different rights of the individual and to recommend legislative and administrative measures to prevent such infringements by State officials and other persons.

8. *Earlier Conclusions*

The individual rights which should be safeguarded are enumerated in the Universal Declaration of Human Rights, and the relevant international conventions; they have in many instances been defined by earlier Congresses and Conferences of the International Commission of Jurists, particularly the Congress of New Delhi (1959), the Conference of Lagos (1961), the Congress of Rio de Janeiro (1962), the Conference of Bangkok (1965) and the Ceylon Colloquium on the Rule of Law (1966). Accordingly, this Conference has not attempted to redefine them all.

In the light of present day evolution, the Conference considers that special attention should be drawn to two other Conferences of the International Commission of Jurists, each held to examine a specific right in depth, namely the Nordic Conference on 'The Right to Privacy' (1967) and the Bangalore Conference on 'The Right to Freedom of Movement' (1968). The Conference also wishes to draw special attention to the Conclusions of the United Nations Seminar held at Kingston, Jamaica, in 1966 on 'Effective Realisation of Civil and Political Rights at the National Level' and other recent United Nations Seminars on human rights.

9. *International Jurisdictions*

While the protection of the individual is most effectively safeguarded at the national level, international judicial and other effective supervision is also necessary. In order to give full effect to the provisions of the Universal Declaration, regional conventions and other arrangements should be encouraged. Such conventions should provide effective implementation machinery analogous to that provided by the European Convention on Human Rights. Consideration should also be given to the setting up within the framework of the United Nations of a Universal Court of Human Rights that could act as a final court of appeal in all matters related to human rights. In any international machinery provided, the right of individual petition is regarded as essential. Consideration should also be given to the establishment of an international jurisdiction to deal with crimes against humanity.

10. *United Nations High Commissioner for Human Rights*

The adoption of the proposal now before the General Assembly of the United Nations for the establishment of a U.N. High Commissioner for Human Rights with an independent status should be encouraged.

11. *Ratification*

Finally, this Conference urges every country

- (a) to adhere to the principles embodied in the European Convention for the Protection of Human Rights and Fundamental Freedoms (including Article 25 and the Articles relating to the jurisdiction of the Court), and those in the European Social Charter ;
 - (b) to sign and ratify the International Covenant on Civil and Political Rights (including the Optional Protocol), the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of all forms of Racial Discrimination ;
- and
- (c) to take early steps by legislation or otherwise to ensure the effective existence in its legal and administrative structure of the essential and basic elements necessary for the protection of the individual.
-

HAITI'S DENUNCIATION OF THE INTER-AMERICAN CONVENTIONS ON ASYLUM

In September 1967, commenting on the situation in Haiti,¹ the International Commission of Jurists referred to Haiti's denunciation of the Inter-American Conventions which regulate territorial and diplomatic asylum.²

During the International Conference on Human Rights held at Teheran by the United Nations early in 1968,³ the Government of Haiti submitted for the consideration of the Conference a report⁴ which, from its introduction, would appear to be a reply to a document submitted to the same Conference by the Organisation of American States.⁵ This contained a report of the Inter-American Commission on Human Rights on its organisation and activities, which understandably included references to Haiti.

The arguments that Haiti put forward in her defence are not very convincing: they are more an attack on the Inter-American Commission itself than a reasoned denial of the disturbing facts concerning human rights in Haiti which are to be found in the Commission's report. Moreover, criticism and allegations against a regional organisation should be made within the organisation itself; a member State's grievances can be given proper consideration there, it can propose to the other members necessary changes in policy and it can even obtain the clarification or amendment of any provisions in the constitution or statutes which have in practice proved defective.

¹ See Bulletin 31.

² Havana Convention on Asylum, 1928; Montevideo Convention on Political Asylum, 1933; Caracas Convention on Diplomatic Asylum, 1954.

³ 23rd April - 13th May.

⁴ A/Conf.32/18 of 23rd April 1968.

⁵ A/Conf.32/L.10.

For reasons of its own, the Government of Haiti preferred to submit its report to a wider audience which, apart from receiving it, could do nothing constructive about it. The document itself contained repetitions of sensational statements, such as that there was an international conspiracy against 'a small negro republic', that the diplomatic corps in Haiti had been the *easy victim of the subversive influence of the foreign press and so on.*

Part of the Haitian document is devoted to the denunciation of the Inter-American Conventions on Asylum. This should be given some attention, for it is a further disturbing element in the human rights situation in Haiti. It would appear, in effect, that the Haitian government is now attempting to abolish the institution of asylum, which it claims in rather offensive terms 'the Latin American Embassies have abused'.¹

Haiti claims that the denunciation of the Conventions is in accordance with the procedures established by the Conventions themselves and, in the statement to the Conference, she seeks to assert her right as a 'sovereign State' to proceed in this way. The basic question is whether, by denouncing the Conventions, which do not constitute the right to asylum but 'regulate' (as between the States parties) the grant of asylum, the Haitian government is purporting to abolish the institution which is, according to the ambiguous arguments put forward, 'incompatible with national institutions'.

In a note to the Heads of Latin American Missions in Port-au-Prince, the Foreign Minister of Haiti asked them to inform their Governments that the denunciation of the Conventions 'cannot be considered a breach of custom, law or international principles'. Clearly, the denunciation itself is not such a breach. The parties are normally as free to denounce a convention as they were to sign and ratify it. However, if, as would appear from other passages in the Teheran document, by denouncing these Conventions Haiti is purporting to free herself from the obligation to respect diplomatic asylum then — despite the Foreign Minister's statement — this would entail a breach of custom, law and international principles, at least as far as Latin American countries are concerned, one of which is Haiti.

¹ A/Conf.32/18, p. 9, containing passages from a note sent by the Haitian Foreign Minister to the Secretary-General of the O.A.S.

The grant of asylum to political refugees has been an international custom since time immemorial. It was granted haphazardly until the 19th century, when States began to regulate it in accordance with various theories. In Latin American countries, the institution of asylum — including diplomatic asylum — has since the last century been resorted to with great frequency. Out of all the regions of the world, Latin America has probably had the most cases of asylum; the right has consequently been the subject of detailed legislation on the national and international levels, and this has given rise to an extremely varied case law.

The law and practice on asylum have laid down a number of conditions which must be meticulously complied with in each case before a diplomatic representative can grant asylum and on which the receiving State will base the validity of its grant. The essential conditions are that the life, liberty or integrity of the person seeking asylum must be in jeopardy as a result of purely political activities. In no case may asylum be granted to an offender against the ordinary law.

The obligation incumbent upon Latin American countries to respect asylum is primarily derived from its character as a 'legal institution', which has been repeatedly confirmed by practice and court decisions relevant as much to the external relations between Latin American countries as to their internal systems. This practice was established before the Inter-American Conventions to 'regulate' the grant of asylum were adopted and is supplementary to them. Some Latin American countries recognize the extra-territoriality of foreign embassies. Others base the right to asylum on essentially humanitarian grounds. Whatever the rationale, asylum is in practice granted sparingly, when the requisite conditions are present. There have in addition been cases of diplomatic asylum in countries outside Latin America; there, in the absence of any custom or law on asylum, the grant has been based on the humanitarian nature of the institution.

At the universal level, the right to asylum has been enshrined in the Universal Declaration of Human Rights. Article 14 provides :

- (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

By recognising it as a fundamental Human Right, this provision has given the right to asylum definite shape. Although States may individually or collectively regulate its exercise — and even enlarge its scope, as in Latin America, to include diplomatic asylum, they are bound by the letter and spirit of the Universal Declaration to respect the right.

There are two different aspects of asylum: the right of an individual to seek it and the right of a State to grant it. In the case of Haiti, the government could quite easily prevent its nationals from seeking asylum in foreign embassies. However, if an individual managed to gain access to an embassy and was granted asylum, it would be difficult to see how Haiti could contest the grant, since her denunciation of the Conventions does not affect the right of States to grant asylum. It should be borne in mind that the Conventions do not constitute asylum but merely regulate the conditions for its grant. The denunciation therefore affects the exercise but not the existence of the right. In the event of asylum being granted, this may well raise problems, which ought to be settled at this stage between the countries which are prepared to grant asylum and Haiti.

It was said above that the Government's denunciation was a further disturbing element in the already precarious situation of human rights in Haiti. It claims that the Conventions are 'incompatible with national institutions which must be reinforced'. It is difficult to see how much further this absolute dictatorship can go, which has shown such scant regard for the human person and the elementary principles of the Rule of Law.

More and more Haitian refugees are joining the large number of exiles who, because of the country's geographical situation, have often risked their lives in precarious boats in order to escape. The majority of them come from the poorest classes, whose only concern is to seek greater personal security.

When the Government of Haiti decides to respect the Universal Declaration, particularly the provisions concerning freedom and security of the person, it will no longer need to restrict the right to asylum since none will seek it.

NON-SELF-GOVERNING TERRITORIES

One of the principles upon which the Charter of the United Nations was based is the right of peoples to self-determination (Article 1 (2)). This right, reaffirmed by the General Assembly in a resolution passed in 1958, was enshrined in 1966 in both International Covenants on Human Rights as Article 1. The United Nations have achieved a great deal not only in the international codification of the right to self-determination, but also in its implementation. At the time of the establishment of the U.N., almost one-quarter of the world's population lived in dependent territories, without self-government. Chapter XI of the Charter contains a declaration regarding non-self-governing territories in which articles 73 and 74 outline the duties of those member-states 'which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government'. They accept 'as a sacred trust the obligation to promote to the utmost... the well-being of the inhabitants of these territories... to develop self-government and... political, economic, social and educational advancement'.

In 1960, the General Assembly adopted the Declaration on the Granting of Independence to Colonial Countries and Peoples (GA/RES/1514 (XV)) and established a Special Committee, which is now known as the Committee of Twenty-Four, to examine the application of the Declaration, to make suggestions and recommendations on the progress and extent of the implementation of the Declaration and to report to the General Assembly.

As documentation on non-self-governing territories can only be obtained piece-meal from a wide variety of sources and is therefore difficult to compile, it seemed worth-while to try to take stock of the present position and to give an overall picture of the many territories administered by other countries, indicating the degree of independence attained and briefly describing the extremely varied forms of administration.

Many technical difficulties were encountered in carrying out this apparently simple task, primarily because it is not easy to determine exactly what territories should be included under this

heading. The list that follows does not pretend to be exhaustive and is inevitably to some extent arbitrary. It is based chiefly on the reports on non-self-governing territories made to the Committee of Twenty-Four; though the International Labour Organisation's list of 'Non-Metropolitan Territories' has also been used. Some governments which report to the Committee of Twenty-Four on only one non-self-governing territory report to the International Labour Office on ten or more non-metropolitan territories, as this gives them an opportunity of applying the more flexible provisions of the Constitution and conventions of the ILO with respect to such territories. The U.N. term is nevertheless retained for the purposes of this article.

Once again, the intention of this compilation is not to create controversy but merely to give as objectively as possible a list of territories that are not yet completely self-governing, classifying them under the countries that exercise sovereignty over them and briefly describing their legal status and geographical situation. The population figures and areas are based on the official statistics of the metropolitan States.

The list ends with a description of the international systems governing certain territories.

I. TERRITORIES ADMINISTERED BY A STATE

A. AUSTRALIA

Papua is an area of the island of New Guinea, the second largest island in the world, which lies to the north of Australia. The island is divided longitudinally into roughly two halves; the western portion is West Irian under the administration of Indonesia, and the east consists of Papua, which is administered as a single unit by Australia with the trust territory of New Guinea (see below). Papua was originally annexed by the United Kingdom in 1888, was placed under the authority of the Commonwealth of Australia in 1902 and has continued as an Australian colony since that time.

The territory of Papua and New Guinea comprises 183,000 sq. miles, much of which is very mountainous and almost inaccessible. The indigenous population is a little over 2 million and there are in addition some 35,000 non-indigenous inhabitants, mostly of European or Chinese origin.

The territory is administered by an Administrator, appointed by the Governor-General of Australia, with the assistance of a Council consisting of three official members and seven members elected by the House of Assembly. The House of Assembly, which has limited legislative powers, consists of 69 members elected by universal adult suffrage, 15 members elected from candidates possessing certain minimum educational qualifications, and 10 official members. At the local level, there are local government councils in many areas of the territory.

Christmas Island lies between Fremantle, Australia, and Singapore; it is about 52 square miles in extent. It has no indigenous population, the total population of about 3,500 consisting of Chinese, Malays and Europeans. It became an Australian territory on 1st October 1958.

Nearly all residents are employees of the Phosphate Commission, the recovery of phosphate being the sole economic activity. The Australian Government is represented by an Official Representative.

Norfolk Island lies to the east of Australia. Its total area is 13.3 square miles and its population about 1,200. A former Crown colony, it was transferred to the Australian Government in 1914.

Government is the responsibility of an Administrator appointed by the Governor-General of Australia. He is assisted by an Advisory Council of eight members elected by adult suffrage. Certain financial matters and proposed legislation must be referred to the Council for its advice.

Cocos (Keeling) Islands consist of 27 small islands of which only three are inhabited by a total population of something under 700, consisting of Europeans and Cocos Malays. They lie in the Indian Ocean to the north-west of Australia.

The islands have been a British possession since 1857; administration was transferred to Australia in 1955. The territory is now administered by an Official Representative acting under the instructions of the Australian Minister for Territories.

B. DENMARK

The Constitution of the Kingdom of Denmark makes no distinction between Denmark, Greenland and the Faroe Islands, all of which constitute the Kingdom of Denmark. The Constitution applies to all (Article 1); though it contains some provisions specific to Greenland and the Faroe Islands, including representation at Parliament (Article 28) and the age required for voting in certain cases (Article 86).

The Faroe Islands are an archipelago north of Scotland. Population: 35,000. Capital: Thorshavn.

Greenland, with an area of over 800,000 sq. miles, is the largest island in the world. It lies north of America and is partly covered by ice. Population: 25,000. Capital: Godthaab.

C. FRANCE

Chapter XI of the Constitution of the Fifth Republic deals with 'territorial communities', defined by Article 72 as 'communes, departments and overseas territories'. The Constitution therefore makes no distinction between the metropolitan departments and the overseas departments. Article 73, however, provides that 'measures may be taken to adapt the legislative system and administrative organization of overseas departments to their particular conditions'. The Overseas territories have, by Article 74, 'a special organization based on their own interests within the overall interests of the Republic'. A comparison of these two articles shows that the overseas departments are assimilated to the metropolitan departments, whereas the overseas territories are placed on a special footing; both, however, elect deputies to the French National Assembly. Overseas territories are administered by a Governor (*Chef de Territoire*), who represents the French Government and is assisted by a Government Council. A Territorial Assembly elected by universal suffrage has wide powers of local administration.

France now has four overseas departments and seven overseas territories.

OVERSEAS DEPARTMENTS

French Guiana: situated in South America between Dutch Guiana and Brazil. Colonized by France in 1637. Area: 35,500 sq. miles. Population: 50,000. Capital: Cayenne.

Guadeloupe: archipelago in the West Indies (Grande-Terre, Basse-Terre, Désirade, Marie-Galante, les Saintes, Saint-Barthélemy, Saint-Martin—northern part). The French settled there in 1635, but it was only finally annexed to France in 1815. Population: 300,000. Capital: Basse-Terre.

Martinique: one of the Lesser Antilles. Colonized by the French in 1635. Area: 430 sq. miles. Population: 300,000. Capital: Fort-de-France.

Réunion: island east of Madagascar, formerly called Bourbon Island. Already inhabited when the French settled there in 1642. Population: 350,000. Area: 975 sq. miles. Capital: Saint-Denis.

OVERSEAS TERRITORIES

French Territory of the Afars and the Issas: formerly French Somaliland established in 1884 by the union of two protectorates. Situated at the entrance to the Red Sea, opposite Aden. Area: 8,800 sq. miles. Population: 85,000. Capital: Djibouti.

Comoro Islands: four islands situated north-west of Madagascar: Mayotte (annexed to France in 1841), Anjouan, Mohéli and Grande Comore (annexed to France in 1886). Population: 170,000. Capital: Moroni (former capital: Dzaoudzi).

New Caledonia: Melanesian island with Polynesian dependencies, Loyalty Islands. Annexed to France in 1853. Area: 7,400 sq. miles. Population: 77,000. Capital: Nouméa.

French Polynesia consists of about 130 islands, former French colonies of Australasia, spread out over an area roughly the size of Europe (Marquises, Gambier, Tahiti, Windward Islands, Leeward Islands Tuamotu, etc.), attached to France during the 19th century. Population: 85,000. Capital: Papeete.

Wallis and Futuna Islands: Melanesian islands placed under a protectorate in the 19th century, overseas territory since 1961. Population: 10,000.

Saint Pierre and Miquelon: archipelago near Newfoundland, French possession since the 17th century. Area: 78 sq. miles. Population: 5,000. Capital: St. Pierre.

French Southern and Antarctic Territories: Uninhabited territories near the South Pole, explored since the beginning of the century. The Chief of the meteorological mission is the representative of the French Government.¹

D. INDONESIA

The Administration of **West Irian** (West Papua) was, after the clash between the Dutch and the Indonesians over that territory, handed over to Indonesia under an Agreement entered into on 15th August 1962 between the Netherlands and the Republic of Indonesia. This Agreement, which was submitted by way of Resolution to and adopted by the General Assembly of

¹ Antarctica is claimed by many powers; international conventions have been concluded regarding its non-militarization and scientific research carried out there.

the United Nations, commits Indonesia to steer West Irian to ultimate self-determination by 1969. The population of West Irian is about 750,000.

E. THE NETHERLANDS

Article 1 of the Constitution of the Netherlands of 29th December 1954 provides that the Kingdom is composed of the Netherlands, Surinam and the Netherlands Antilles. But Article 2 states that, except where otherwise provided, the Constitution is binding only on the territory of the Kingdom in Europe and that each reference to the Kingdom in the Constitution means the European part thereof.

Surinam or Dutch Guiana is situated in South America between Guyana (Formerly British Guiana) and French Guiana. Area: 56,550 sq. miles. Population: 250,000. Capital: Paramaribo.

Netherlands Antilles: the main island is Curaçao with over 100,000 inhabitants. Capital: Willemstad.

Each territory enjoys full autonomy in internal and domestic affairs. External affairs are the responsibility of the Governor, who is the representative of the Queen. There is a government for each territory, which is appointed by the Governor and is responsible to the Legislative Council. The latter body is elected by universal suffrage.

Whenever the Council of Ministers of the Netherlands deals with matters affecting the joint affairs of all the territories of the Kingdom, two ministers plenipotentiary, appointed by the governments of Surinam and the Netherlands Antilles respectively, take part in the deliberations with full voting powers. Similarly, legislative proposals before the Netherlands Parliament that affect the other territories are submitted to the Legislative Councils of the territories, which may both report their views in writing and appoint delegates to attend the debates in both chambers of the Netherlands Parliament. If they disapprove the draft legislation, a three-fifths majority in the second chamber of the Netherlands Parliament is necessary. If this is not obtained, the proposal is referred to the Council of Ministers, attended by the two ministers plenipotentiary, for further deliberation.

F. NEW ZEALAND

The Cook Islands are a group of 15 widely scattered islands in the South West Pacific. Their total area is 84 sq. miles and the population about 20,000. They were annexed to the then British Colony of New Zealand in 1901 and remained a part of New Zealand until 4th August 1965, when they became a self-governing state in free association with New Zealand.

Executive authority is vested in the Government consisting of a prime minister and five other ministers. New Zealand is represented by a High Commissioner. There is a Legislative Assembly of 22 members elected by universal suffrage with full legislative powers, including power to amend the Constitution. New Zealand retains authority only in respect of defence and external affairs, but this position can be changed by a two-thirds majority vote in the Legislative Assembly followed by a two-thirds majority vote in a referendum. Thus the State is free to proceed to full independence on its own initiative.

Niue is one of the Cook Islands, but is administered separately; it forms part of New Zealand, and its inhabitants have New Zealand citizenship. It has a total population of just under 5,000.

Executive authority is vested in a Resident Commissioner responsible to the New Zealand Minister of Territories, assisted by an Executive Council consisting of four members elected by the Legislative Assembly, with the Resident Commissioner as Chairman. The Legislative Assembly consists of fourteen members elected by universal suffrage, and has power to enact ordinances; it also controls internal expenditure. Ultimate legislative authority remains vested in the New Zealand Parliament.

Tokelau Islands: these are three islands, with a population of some 1,800. They are administered by New Zealand through its High Commissioner in Western Samoa. The local administration is headed by Tokelauan officials in each of the three islands. The islands' council of elders and of heads of family has been accorded official consultative status by the New Zealand Government. Both in 1964 and in 1966, at popular assemblies, the inhabitants expressed the wish to retain their links with New Zealand.

G. PORTUGAL *

Angola: According to the Constitution of Portugal, Angola is one of the 'overseas territories'. It is situated in West Africa, south of the Congo (Kinshasa). Portuguese navigators arrived there in 1482 and have occupied it ever since. Area: 486,244 sq. miles. Population: 4,833,000, of which 250,000 live in Luanda, capital.

The territory is controlled by the Metropolis, though it enjoys financial and administrative autonomy. A Governor-General is appointed by the President of Portugal and his Government is responsible to the Minister for the Overseas Provinces. The Governor is advised by a legislative council of 34, of whom 15 are elected by direct popular vote. Angola is ruled under the Organic Law for the Overseas Provinces of June 1953 and the Statute of July 1955. Decrees of 1955 and 1961 divide the province into 15 districts.

Mozambique: second largest overseas province, situated in East Africa. Vasco da Gama arrived there in 1498 and a first settlement was established in 1505. Area: 305,722 sq. miles. Population: 6,593,000, of which 184,000 in Lourenço Marques, capital. Its administration is settled by Law 2066 of 1953, under which the highest authority, a Governor-General, is assisted by a Legislative Council and an Economic and Social Council (since 1964). In the Legislative Council there are elected and nominated representatives of the industrial, commercial and agricultural interests of the province, as well as of religious and cultural associations and municipalities, and some representatives of native populations. The Governor is appointed by the Minister for the Overseas Provinces.

Cape Verde Islands: This archipelago, divided into Leeward and Windward Islands is situated off the West African Coast. Area: 1,573 sq. miles. Population: 222,000. Capital: Praia. Portugal has administered the islands since 1466.

* For Portuguese African Territories, see also *Bulletin* No. 34.

Portuguese Guinea: Situated between Gambia and the Republic of Guinea, on the west coast of Africa, it includes the adjacent archipelago of Bijagoz and Island of Bolama. Area: 14, 089 sq. miles. Population: 520,000.

Macao: Near to Hong Kong, Macao consists of the Peninsula of Macao and the two adjacent islands of Taipa and Coloane. Capital: Macao is a free port. 6.2 sq. miles. Population: 250,000.

Sao Tome and Principe: Situated in the Gulf of Guinea, West Africa, these islands have a population totalling 57,000.

Timor: Consists of Eastern part of Island of Timor, territory of De Cusse and adjacent islands of Pulo Jako and Atauro. Situated between Indonesia and Australia. Capital and Chief port: Dili. Population: 560,000.

These five overseas provinces are all administered under statutes provided for in the Organic Law for the Overseas Provinces of 1963. Each province is under the control of the Metropolis, but is financially and administratively autonomous. Budgets are voted annually by the Legislative Councils of the Provinces, but public loans from foreign countries cannot be contracted. Each province has a *Governor*, appointed by the president of Portugal through the Minister for the Overseas Provinces. According to the 1963 Statutes, legislative councils are formed by eleven elected members, with three nominated members.

H. SPAIN

Ifni: costal enclave in Southern Morocco, 750 sq. miles. Population: 52,000, excluding some 15,000 nomads. Capital: Sidi Ifni.

Ifni was occupied by Spain in 1934, and recognised as a province in 1958. It is ruled by a Governor-General, responsible for civil and military affairs and acting for the Director-General of African Provinces in Madrid.

Spanish Sahara: coast to the south of Morocco, 110,000 sq. miles approximately. Population: 49,000 *plus* about 50,000 nomads, who enter the province in the rainy season. The Governor-General is at Villa Cisneros in the Rio de Oro region. The province is divided into two regions: Saguia el Hamra, with principal town Al Aiun in the north and Rio de Oro, with capital Villa Cisneros in the south.

I. UNITED KINGDOM

Territories dependent on the United Kingdom of Great Britain and Northern Ireland comprise colonies, protectorates, protected states and associated states. The Government of the U.K. exercises its responsibility through the Commonwealth Relations Office (with which the former Colonial Office has been amalgamated) and the Foreign Office.

Definitions:

Colony: A territory belonging by settlement, conquest or annexation to the British Crown.

Protectorate: A territory not formally annexed, but in respect of which, by treaty, grant, wage, sufferance and other lawful means, the Crown has power and jurisdiction.

Protected State: A territory under a ruler which enjoys Her Majesty's protection, over whose foreign affairs she exercises control, but in respect of whose internal affairs she does not exercise jurisdiction.

Associated State: A former colony which, in 1966, under an agreement between Britain and itself, established a non-colonial relationship with Britain and with the other associated states. At present, this new relationship applies only to certain of the Leeward and Windward Islands in the West Indies.

BRITISH COLONIAL TERRITORIES

Bahamas: Collective name for about 700 islands off the coast of Florida to the north of Cuba and Haiti, covering 5,386 sq. miles. Capital: Nassau. Population: 138,000.

Present Constitution in force since January 1964, makes the colony internally self-governing to a large degree. The Governor, representing the Queen, retains special responsibility for foreign affairs, defence and internal security. He acts on the advice of the Premier and the Cabinet of at least 14 Ministers. The Cabinet in turn is responsible to the bi-cameral Parliament which consists of the Senate (Upper house) with 15 appointed members, and the House of Assembly (lower house), of 38 members who are elected by universal suffrage. Negotiations are at present under way for further constitutional advance.

Bermuda: the Bermudas (or Somers Islands) are a group of small islands in the Atlantic about 570 miles off the coast of South Carolina, U.S.A., forming the oldest British colony. They cover an area of 20.65 miles. Capital: Hamilton. Population: 49,000. Representative government was first introduced in 1620 and the colony is largely self-governing. Executive authority is vested in the Governor assisted by an Executive Council of three official members and six others appointed by the Crown. The Legislative Council consists of 3 official members and 8 nominated members, while the House of Assembly is composed of 36 members elected by universal suffrage, for a 5-year term.

British West Indies

(a) **British Honduras** lies on the Caribbean coast of Central America between Mexico to the north-west and Guatemala to the south-west, covering an area of 8,866 sq. miles. Capital: Belize City. Population: 109,000.

A new Constitution giving full internal self-government came into force in 1964. Executive power is vested in a Cabinet of Ministers; the Governor retains responsibility for defence, external affairs and internal security. In connection with the first two, he acts with assistance from consultative bodies designed to familiarise ministers with matters for which they will ultimately hold full responsibility. The legislature consists of a Senate of 8 appointed members and a House of Assembly of 18 members elected by universal suffrage.

(b) **The British Virgin Islands:** A group of 36 small islands (13 only inhabited), which lie about 60 miles east of Puerto Rico and adjoin the

American Virgin Islands, covering an area of 67 sq. miles. Capital: Road Town. Population: 8,600.

A new Constitution came into effect in April 1967, providing for an Administrator and Executive and Legislative Councils. The Administrator is responsible for defence and internal security, external affairs, administration of the Courts and finances together with reserved legislative power in respect of legislation necessary in the interest of his special responsibilities. The Executive Council consists of the Administrator as Chairman, the Attorney-General and the Financial Secretary as the two *ex officio* members, the Chief Minister, and two other ministers, appointed by the Administrator. The Legislative Council consists of the Speaker, chosen from outside the Council, two *ex officio* members, one nominated member and seven elected members.

(c) **The Cayman Islands:** This group of islands, covering 100 sq. miles in area, lies about 200 miles north-west of Jamaica, whose dependency the islands were until 1959. Capital: Georgetown. Population: 8,500.

In 1962 a new Constitution was introduced, severing all ties formerly held with Jamaica and making the islands a separate colony of the U.K. Government is carried on by the Administrator, the Executive Council of 5 members (two official, one nominated and two elected from among the members of the Legislative Assembly) and the Legislative Assembly, which consists of up to three official members, up to three nominated members and twelve elected members. The Administrator is a member of both the Executive and the Legislative Councils.

(d) **Montserrat:** Montserrat, one of the Leeward Islands with an area of 39 sq. miles, is one of the East Caribbean Islands which stretch in arc south-east from Puerto Rico. Capital: Plymouth. Population: 14,000.

The present Constitution came into force in 1960, and provides for an Administrator as the chief executive authority and Executive and Legislative Councils. The Executive Council consists of the Administrator as President and 5 members, including the Chief Minister and two other ministers. The Legislative Council consists of the Speaker, two official members, one nominated member and seven elected members. In 1967 the other East Caribbean Islands, (comprising the former Leeward and Windward groups of islands) adopted Associated Status vis-à-vis the U.K. (see the *West Indian Associated States* below). Montserrat elected not to become a member, but to remain a colony until separate arrangements could be worked out for her particular requirements.

(e) **The Turks and Caicos Islands:** This group of more than 30 islands (of which six are inhabited) forms the south-eastern part of the Bahamas chain of islands. The islands cover an area of 166 sq. miles and lie to the north of Haiti. The total population: 6,800.

Like the Cayman Islands, the Turks and Caicos Islands were until 1959 a dependency of Jamaica and became a separate British Crown Colony in 1962. The Government now consists of the Administrator and an Executive Council of two official members, one nominated member and two members elected by the Legislative Assembly. The Legislative Assembly consists of the Administrator, two nominated members and nine elected members. In 1965, the Governor of the *Bahamas* was also made Governor of the Turks and Caicos Islands. These two colonies now also share a common Bench for their Courts of Appeal.

Falkland Islands: These lie in the South Atlantic Ocean, 400 miles north-east of Cape Horn, the southern-most tip of the South American Continent. There are two main islands and about 200 smaller ones, covering a total area of approximately 4,700 sq. miles. Capital: Stanley. Population: 2,000.

The Falkland Islands are governed as a single British Colony under the present Constitution which was introduced in 1949. They are administered by a Governor, assisted by an Executive Council of 2 *ex officio* members, two appointed members and two members elected by the Legislative Council. The latter body consists of two *ex officio* members, 2 nominated members and 4 members elected by universal suffrage.

Falkland Island Dependencies: The island groups of South Georgia (1,450 sq. miles) and South Sandwich (130 sq. miles) are whaling stations in the South Atlantic almost entirely engaged in the whaling and seal-oil industries. The Governor of the Falkland Islands has been empowered from 1949 to legislate for these Dependencies, being represented there by an administrative officer, who is also a magistrate.

Fiji: The colony of Fiji consists of more than 800 islands situated some 1,200 miles south of the Equator in the Pacific Ocean and spreading over a total area of 7,055 sq. miles. Capital: Suva. Population: 470,000.

Under the Constitution of 1966, executive power is vested in a Governor and a Council of Ministers consisting of four official and six elected members and presided over by a Chief Minister. Defence, external affairs, internal security and the public service remain the responsibility of the Governor. The Legislative Council has four official and 36 elected members. The Constitution provides for an electoral system based upon universal suffrage, which results in representation according to the various racial groups—Fijian, Indian and General (mainly European and Chinese)—who make up the population. Thus 25 members of the Legislative Council (9 Fijian, 9 Indian and 7 General) are elected on the communal rolls and 9 members (3 each from the 3 groups) on a cross-voting system under which all races vote together. The two remaining members are Fijians elected by the Great Council of Chiefs. There is also a Fijian Affairs Board, consisting of the Secretary, 2 *ex officio* members and 5 Fijian members of the Legislative Council.

The Pitcairn Islands, lying midway between Australia and S. America are also administered by the Governor of Fiji, assisted by an elected six-member Island Council.

Gibraltar: A Crown colony held by Great Britain since 1704, Gibraltar is a territory of 1,360 acres on the southern coast of Spain with a population of some 24,000. It was granted a large measure of internal self-government in 1964. Executive authority is vested in the Governor, who is advised by a Council consisting of five elected and four *ex officio* members. There is a Council of Ministers, with a Chief Minister, and a Legislative Council consisting of a speaker appointed by the Governor, eleven elected members and two *ex officio* members.

In a referendum held on 10th September 1967 the voters of Gibraltar voted by a huge majority to retain their link with the United Kingdom. Out of 12,762 registered voters 12,138 voted in favour of the link and only 44

voted for the alternative proposal, to pass under the sovereignty of Spain. Under the Treaty of Utrecht, by which Spain ceded Gibraltar to the United Kingdom, Gibraltar cannot be alienated from the British Crown without first being offered to Spain.

Gilbert and Ellice Islands: Four main groups of islands spread over a vast area (2 million nautical sq. miles) of the Central Pacific Ocean. Capital: Tarawa. Population: 49,000.

Administration is by a Resident Commissioner who is responsible to the Western Pacific High Commissioner. Under a new Constitution introduced in 1967 he is assisted by a Governing Council consisting of the Resident Commissioner, five official members and five unofficial members elected by the House of Representatives. It advises the Resident Commissioner. The House of Representatives consists of 7 official appointed members and 23 elected members, of whom one is chosen to be Chief Elected Member. Legislative Competence is vested in the Resident Commissioner; the House of Representatives can at present only consider and express its views on proposed legislation; such legislation must however be consented to by the Governing Council.

Hong Kong: The Colony of Hong Kong lies off the south coast of China and consists of the island of Hong Kong, Stonecutters Island, the Kowloon Peninsula, and the New Territories which are on the Chinese mainland and which were leased by China in 1898 for a term of 99 years. Total area: 398.25 sq. miles. Capital: Victoria on Hong Kong Island. Population: nearly 4 million.

The Constitution, provides for government by the Governor, assisted by an Executive Council of five *ex officio* members and nine nominated members; it is consulted by the Governor on all important questions. The Legislative Council consists of four of the *ex officio* members of the Executive Council, eight other official members and thirteen unofficial members. It advises on and approves proposed legislation and approves all expenditure from public funds.

St Helena: This island lies in the South Atlantic Ocean between the coasts of southern Angola and Brazil. It is 47 sq. miles in area with a population of 4,700. Capital: Jamestown.

The colony is administered under an Order in Council and Royal Instructions of June 1956 and the St Helena Court Order of 1966, which provides for a Governor and Executive and Legislative Councils. The Executive Council has, besides the Governor, 7 members, partly *ex officio*, partly appointed. The Legislative Council consists of two *ex officio* members, six members appointed by the Governor and eight elected members.

Ascension and Tristan da Cunha: These two islands, lie in the South Atlantic and are governed by Administrators. Tristan da Cunha was evacuated in 1961 after volcanic eruptions but has since been partially resettled. Ascension is 34 sq. miles in area with a population of 500; Tristan da Cunha: 38 sq. miles. Population: 230.

Seychelles: Group of 89 islands and cays in the Indian Ocean, 4 degrees south of the Equator, some 990 miles off the East African Coast. Capital: Victoria. Population: 47,000.

The present Constitution came into force on 13th November 1967. The Governor is head of the administration and is responsible for defence, external affairs, internal security, law and order and certain public service matters. There is a single Governing Council, which consists of the Governor as President, three *ex officio* members, four nominated members and eight elected members. Committees of the Council carry out executive functions under the authority of the Council. Universal adult suffrage was introduced by the new constitution, and the first elections under it were held in December 1967.

British Indian Ocean Territory: This colony, consisting of the Chago Archipelago and 3 other islands set in the Indian Ocean about, 1,200 miles off Mauritius, was set up in 1965 to provide defence facilities for the UK and USA governments. The population of 1,400 is governed by an Administrator who is the representative of the Governor of the Seychelles.

PROTECTORATES AND PROTECTED STATES

British Solomon Islands Protectorate: Situated in the South Pacific, south-south-east of New Guinea, covering 11,500 sq. miles in land area and coming under the ultimate authority of the Western Pacific High Commissioner. Population: 140,000.

A new constitution came into force on 1st April 1967. The protectorate is administered by a High Commissioner with the advice of an Executive Council consisting of 3 *ex officio* members and up to 5 other members. The Legislative Council consists of up to 15 officials members, two members nominated by the High Commissioner and a minimum of 14 elected members. Provision is made for the progressive introduction of unofficial majorities on both councils. Universal suffrage is introduced by the 1967 Constitution.

Brunei: A British Protected Sultanate in S. E. Asia, lying between the Malaysian provinces of Sarawak and Sabah on the island of Borneo. Area: 2,226 miles. Capital: Brunei Town. Population: 100,000.

Under the Constitution of 1959, the Sultan has sovereign authority over Brunei and rules with the assistance of a Legislative Council, a Council of Ministers and a Privy Council. The British Government continues to be responsible for defence and external affairs and the British High Commissioner, who is a member of the Council of Ministers, advises the Sultan on these matters. A *Mentri Besar* (Chief Minister) is appointed by the Sultan and is responsible for the exercise of executive power. Other members of the Council of Ministers are six *ex officio* members and four members of the Legislative Council. The latter consists of six *ex officio* members, 5 members nominated by the Sultan and 10 elected members.

The Persian Gulf States: These States are:

(a) **Bahrain:** governed by the Ruler and his Council of Administration. Area: 245 sq. miles. Population: 182,000.

(b) **Qatar:** a sheikhdom whose Ruler exercises complete control over internal affairs, assisted by a number of Ministers and an Advisory Council. Area: 4,000 sq. miles. Population: 60,000.

(c) **The Trucial States:** (seven—Sharjah, Ajman, Ras Al Khaimah, Dubai, Abu Dhabi, Um Al Quwain, Fujairah). The rulers of the Trucial States have absolute control over their own subjects and are represented on the Trucial States Council, which meets at least twice a year to discuss problems of mutual interest. Area: 32,000 sq. miles. Population: 135,000.

All the above States of the Persian Gulf are linked to the United Kingdom by treaties, under which external relations are conducted by the latter. The U.K. has also undertaken to protect the States against foreign aggression.

Tonga: An independent Kingdom of some 150 islands lying 300 miles east of Fiji in the South Pacific under British Protection. Area: 270 sq. miles. *Capital:* Nuku'Alofa. Population: 71,000.

The Constitution of Tonga dates from 1875 and provides for a government consisting of the Sovereign, the Privy Council, Cabinet and the Legislative Assembly. Tongan ministers control all departments of state. Under a Treaty of Friendship dating from 1897 and revised in 1958 the British Government has undertaken to protect Tonga and is represented there by the British Commissioner.

WEST INDIES ASSOCIATED STATES

Antigua: Area: 108 sq. miles. Population: 54,000.

St Kitts-Nevis-Anguilla:¹ consisting of the islands of St. Christopher, Nevis and Anguilla. Area: 136 sq. miles. Population: 56,000.

Dominica: 290 sq. miles. Population: 66,000.

Grenada: 133 sq. miles. Population: 98,000.

St Lucia: 238 sq. miles. Population: 90,000.

St Vincent: 150 sq. miles. Population: 87,000.

The Association is free and voluntary and can be terminated unilaterally at any time, either by an Associated State by a two-thirds majority in the legislature followed by a two-thirds majority in a referendum, or by the British Government. On termination of associated status, the state becomes independent.

Each State exercises full internal self-government. The Queen is Head of State, and is represented in each State by a Governor. Separate Constitutions for each island regulate the structure of internal government. Dominica, St Kitts-Nevis-Anguilla, St Lucia and St Vincent have unicameral Parliaments of 10, 10, 11 and 13 members respectively, of whom three are nominated, one *ex officio* and the rest elected. Antigua and Grenada have bi-cameral legislatures, consisting of an Upper and Lower House. In each case, the Prime Minister and Cabinet are responsible to Parliament. Each State can amend its own constitution in accordance with the provisions thereof.

¹ See *Bulletin* 33.

The British Government retains responsibility for defence and external affairs, which it exercises through the British Government Representative. It decides policy in close consultation with the governments of the Associated States, to which authority may be delegated in certain defined spheres.

J. UNITED STATES OF AMERICA

American Samoa: situated in the Southern Central Pacific, American Samoa consists of the seven easternmost Samoan islands with a total area of 76 sq. miles. It is administered by the U.S. Department of the Interior through a Governor appointed by the Secretary of the Interior and heads of Department appointed by the Governor. The Legislature (*Fono*), consists of two houses: Senate (15 members elected from local chiefs) and House of Representatives (17 members elected by universal suffrage.) It has legislative power on local matters. The inhabitants, who are Polynesians, are U.S. citizens, although they cannot vote in national elections or send representatives to Congress. They total about 26,000.

Guam: belongs to Mariana Islands, situated about 1,500 miles south-east of Manila. Capital: Agana. Population: (Indigenous) 74,000. Area: 209 sq. miles. Guam is governed under the Organic Act of Guam (1950) which gave the Island local self-government. The inhabitants are citizens of the U.S., although they cannot vote in national elections or send representatives to Congress. Relations with the United States come under the jurisdiction of the U.S. Department of the Interior. The head of the executive, a Civil Governor, is appointed by the President of the U.S., with the advice and consent of the Senate. There are 12 executive departments. The legislature consists of 21 members elected by universal suffrage every two years. It has legislative power in local matters.

U.S. Virgin Islands: Three main islands, St Thomas, St John and St Croix, plus 40 mostly uninhabited smaller islands. They are situated some 40 miles east of Puerto Rico. Total area: approximately 140 sq. miles. Population: 41,000. The Government is organized under the Revised Organic Act of the Virgin Islands. Executive power is vested in a Governor appointed by the President of the U.S., with the advice and consent of the Senate. There are eleven executive departments whose heads are appointed by the Governor. Legislative power is vested in a unicameral body composed of fifteen senators elected by universal suffrage. Residents of the Islands are citizens of the United States, but they cannot send representatives to Congress nor vote in national elections.

Puerto-Rico: Situated in the Caribbean Sea, Puerto Rico has an area of 3,435 sq. miles and a population of 2,625,000. It came to the United States after four hundred years of Spanish rule, as a result of the Spanish-American war of 1898. Since 1917, its residents have U.S. citizenship. In 1952 its 'free associated status' was approved, and this Spanish-speaking island became a member of the U.S. commonwealth. The Island elects its own authorities, a Governor and a bicameral legislature by universal suffrage. According to the recommendations of a report released by a joint U.S. and Puerto Rican Commission in 1966, it was decided that the Puerto Rican people would decide its future status by a plebiscite, choosing between full statehood, the

maintenance of the existing commonwealth status and total independence. The plebiscite, held on 23rd July 1967, determined the continuance of the Commonwealth free association status.

Puerto Ricans have U.S. citizenship. They share the United States monetary and postal system and young men serve in the U.S. armed forces. They are exempt from payment of federal taxes. A Resident Commissioner is sent to the U.S. Congress, but he has no vote.

II. TERRITORIES UNDER INTERNATIONAL ADMINISTRATION

The territories listed here belong to one of two very different categories: (i) those that are administered by one or more States under the trusteeship system of the United Nations; (ii) those over which two or more States exercise cosovereignty under an agreement concluded between them. Administration exercised by one State over a portion of another State's territory under an agreement concluded between them (e.g. for military bases) is not dealt with here.

A. TRUSTEESHIP SYSTEM OF THE UNITED NATIONS

The Charter set up an International Trusteeship System for the administration and supervision of territories placed thereunder by individual agreements. Supervision is exercised by the United Nations through its Trusteeship Council, in the case of a strategic area through the Security Council and through the General Assembly. By the end of 1949, eleven trusteeship agreements had been approved by the General Assembly. By the end of 1962, most of the trust territories had reached the Charter's goal of self-government or independence: French and British Togoland, French and British Cameroons, Italian Somaliland, Tanganyika, Western Samoa, Rwanda-Urundi.

The Trusteeship Council at its 34th Session (29th May—30th June 1967) noted with satisfaction that eight of the original eleven trust territories had gained their independence and pledged to renew its efforts so that the remaining three could take their places in the community of Nations. A further trust territory, Nauru, achieved independence on 1st February 1968.

The Trust Territory of New Guinea, with 1,611,000 inhabitants (92,160 sq. miles) is administered by the Commonwealth of Australia, jointly with the neighbouring territory of Papua (see above). It was originally ruled by Germany and was the subject of a mandate conferred upon the Commonwealth of Australia by the League of Nations in 1920.

The strategic Trust Territory of the Pacific Islands is administered by the United States. It is composed of 2,100 islands of varying sizes scattered across 3 million sq. miles of the Western Pacific Ocean and is collectively known as Micronesia ('tiny islands'). It has a land area of 700 sq. miles. As of 30th June 1966 there were 92,000 persons living on the three major island groups, the Marshalls, the Carolines and the Marianas. Executive authority and ultimate legislative authority is vested in a High Commissioner under the U.S. Secretary of the Interior. Normal legislative authority is vested in a bicameral legislature: a senate of twelve elected senators and a House of Representatives of 21 elected members.

South West Africa

The territory of South West Africa was until 1966 administered by the Republic of South Africa under a mandate from the League of Nations. In October 1966 the General Assembly of the United Nations terminated the mandate and placed South West Africa under the direct administration of the United Nations. In May 1967 it appointed a Council and a Commissioner for South West Africa to administer the territory until independence. It has not however been possible for the United Nations to establish a presence in the territory, which continues under the *de facto* control of South Africa. Resolution A/RES/2372 (XXII) of 12th June 1968 reaffirmed the former decisions on the territory and renamed it *Namibia*.

B. COSOVEREIGNTY

When sovereignty over a territory is exercised by an international union composed of two or more States and not by a single State, cosovereignty is said to exist. At present there are two examples, and their particular features call for a few remarks.

Anglo-French Condominium over the New Hebrides

The New Hebrides are an archipelago in Melanesia consisting of 37 islands. Area: 5,850 sq. miles. Population: 70,000. Capital: Vila on the island of Efate.

The British and French nationals who settled on the archipelago during the 19th century applied for the protection of their respective countries. At the time of the *entente cordiale*, Great Britain and France decided to administer it jointly (Protocol of 1906 replaced by the London Protocol of 6th August 1914).

The territory is administered by two High Commissioners, one appointed by each country—the Governor (*Chef de Territoire*) of New Caledonia for France and the Western Pacific High Commissioner for the

United Kingdom. Each is represented by a Resident Commissioner. Each island has a French delegate and a British delegate.

The question of jurisdiction is very complex: at the national level, each country is separately responsible for its nationals and for foreigners who choose its protection; at the local level, the two countries are jointly responsible for all the inhabitants of the island. Besides, there are special regulations governing the indigenous population, who according to the Protocol cannot acquire the nationality of either sovereign power.

Each country has its own public services. In addition, there are joint public services such as the Joint Court, composed of a French judge, an English judge, and a president appointed by the Spanish Head of State, for settling conflicts as to the jurisdiction of each national court. Under joint regulations issued on 23rd April 1957, an Advisory Council was set up to represent the population; each of the High Commissioners appoints half of its members.

Cosovereignty over the Principality of Andorra

The Principality of Andorra is situated between France and Spain. Area: 177 sq. miles. Population: 6,000. Capital: Andorra la Vella.

On 8th September 1278 the Bishop and Count of Urgel and the Count of Foix signed an act of 'parage' establishing in the Valley of Andorra a suzerainty of which they would be the co-suzerains. The County of Foix passed to the Kings of Navarre and in 1607 to the French crown; the King of France thereby assumed the jurisdiction of the Count of Foix over the Principality of Andorra. This is now personally exercised by the President of the French Republic. The Bishop of Urgel, who is a Spanish citizen, is still the Co-prince; he is directly responsible for the administration to the Vatican and not to Madrid. Each Co-prince is represented in Andorra by a Provost. There is a General Council of the Valleys, whose 34 members are elected by citizens aged over 25.

INTERNATIONAL NGO CONFERENCE ON HUMAN RIGHTS

UNESCO, Paris 16th-20th September 1968

INTRODUCTION

The largest joint Non-Governmental event of 1968 was a week-long Conference on Human Rights, convened by the Conference of NGOs (ECOSOC) in cooperation with the Geneva and New York Ad Hoc Committees for International Human Rights Year and with the Conference of NGOs (UNESCO).

The Conference was held at UNESCO in Paris from 16th-20th September 1968, and was attended by 245 participants representing 127 non-governmental organisations, and 25 Observers representing 7 National Committees for Human Rights Year, 2 regional inter-governmental organisations and 6 international U.N. agencies, including the Secretariat of the United Nations Organisation itself. Mademoiselle Jeanne Chaton, then Chairman of the UNESCO group of the NGOs, presided over the Conference.

The purpose of the Conference was to review Human Rights Year particularly in the light of the United Nations Teheran Conference, and to set out the priorities for future NGO action in the field of human rights.

The distinguished guest speakers at the inaugural session, U Thant, Secretary General of the United Nations, H.E. Kenneth Kaunda, President of Zambia, and M. René Cassin, former President of the European Court of Human Rights, who has recently been awarded the Nobel Prize for Peace, gave the keynote to the deliberations by their inspiring addresses.

Reminding the delegates of the awesome lacunae between the declarations of rights and their actual implementation, they called on NGOs to provide the pressure which would encourage States to ratify international conventions and ensure their observance. There is a real danger that the whole concept of the

dignity and worth of the human person is disappearing with the persistent violations of human rights in all parts of the world.

It became clear during the Conference discussions that NGOs were only too aware of the dangers, and of their responsibility, arising from governmental inaction and apathy where human rights are concerned. Although representing diverse ideologies, tendencies, nationalities and disciplines, the delegates were unanimous in their appreciation of the need for action and in their concern for the protection of human rights. It could indeed be said that it was world public opinion which was expressing itself in the forum of this widely representative Conference.

The work of the Conference took place in five Plenary Sessions and in six Working Groups. The Agenda was extremely detailed, encompassing a variety of subjects of interest to NGOs in relation to human rights. The educational and legal dimensions of NGO action, economic and social rights, social action at community and national levels, racial perspectives, cultural rights, rights affected by science and technology and the motivating forces in the advancement of human rights all formed topics for discussion. Experts in the different fields, many of them NGO representatives, addressed the committees and helped to clarify the issues. NGO participation was active and constructive; above all, it was harmonious.

Numerous recommendations for action emerged from the discussions. They were received by the final Plenary Session and transmitted to participating organisations for further study and appropriate action. The discussions and the recommendations are summarised below.

SUMMARY OF RECOMMENDATIONS

The Advancement of Human Rights: The Legal Dimension

‘The mere declaration of a fundamental right is not sufficient to ensure that it is respected. It is necessary in addition that those who allege that one of their fundamental rights has been violated should have a readily available means of redress and ultimately an enforceable remedy.’

At National Level

‘First priority must be given to the provision of judicial machinery at national level to ensure the effective protection of

all the rights enunciated in the Universal Declaration : such judicial protection to be effective must be exercised above all by an independent and objective judiciary, not subject to political pressures nor the object of political patronage.

‘ There must also be adequate protection for the rights of the individual against the abuse of administrative power. A specialised institution to deal with such abuse may take one of a number of forms, and may combine a number of functions. As an essential feature it must however have legal competence to investigate individual complaints, unimpeded by official and political considerations, and provide an effective remedy where rights have been infringed or denied.’

It was recommended that such an institution should include representatives from NGOs among its members.

At Regional Level

‘ Experience has shown that purely domestic remedies are not always adequate. In times of political turmoil or ideological passion, governments, and even judges, readily impose their views without regard to the rights of the individual or minorities. In this age of technocracy there is a continuous increase in administrative controls, and bureaucrats in many countries tend to ride roughshod over the rights of those they dominate.’

‘ In such cases, it becomes obvious that citizens must have the right to appeal to impartial bodies outside their national frontiers and must enjoy the possibility to have violations of their rights redressed, as a result of action taken by such bodies.’
‘ ... Regional arrangements are the most effective means for the international protection of human rights.’

‘ At the regional level, the only valid system which exists today is that provided by the European Convention for the Protection of Human Rights and Fundamental Freedoms. The adoption of analogous conventions in other regions is to be strongly encouraged. The operation of the European Convention on Human Rights as well as the work done by the Inter-American Commission on Human Rights indicate the value of such regional institutions.’ The formulation and adoption of such regional systems was suggested as one of the chief targets for the future advancement of human rights.

At Universal Level

‘At the universal level, the progress in regard to implementation machinery has been extremely slow and disjointed. The International Convention on the Elimination of Racial Discrimination and the Protocol to the International Covenant on Civil and Political Rights do contain some form of implementation machinery, but it is far from satisfactory.’

‘The time has surely come to envisage the establishment of a Universal Court of Human Rights with jurisdiction to pronounce on violations of human rights and to hear appeals from domestic or regional courts. Even if the judgments of such a court were not initially accepted by all states, they would undoubtedly exercise a moderating influence. In addition they would make a most useful contribution to the establishment of international norms in the field of human rights.’

It was recommended that Non-Governmental Organisations should ‘promote the establishment of an international criminal court’ to try crimes against humanity. However, many NGOs felt that ‘if the international community will not act to identify major offences against human rights and identify their perpetrators, it is up to men of good will and Non-Governmental Organisations to do so, and to bring offenders before the bar of public opinion’. The possibility of setting up an International Court of Conscience ‘to call for appropriate sanctions and even to warn in advance that certain actions would be regarded as grave offences against human rights’ should therefore be examined.

It was also suggested that ‘independent tribunals of persons of integrity could be established to undertake various human rights investigations’. Renewed attention should be given, moreover, ‘to possibilities for action within the already existing competence of the World Court at the Hague’.

In this connection, it was also thought advisable that ‘the United Nations should establish a register of crimes against humanity, with a view to their ultimate submission to a criminal jurisdiction’.

The Conference was in favour of the creation of the office of a High Commissioner for Human Rights and, pending this, to the immediate appointment by the U.N. Secretary General of ‘a Special Representative whose task would be to approach

governments in regard to ratification and implementation of international conventions’.

Education

‘... The effective protection of human rights is enhanced by the existence of specialised judicial and other bodies, but this cannot be done without the active support of public opinion.’ There must be ‘ingrained in every person a determination to see that his rights and those of others are respected. This can only be achieved through education’. The word, education, is used ‘in its broadest sense, i.e. all the influences to which a person is subjected throughout his or her life. Seen in this light the work of NGOs is largely educational...’

‘Education should, among other things, be directed to making people fully conscious of their rights, to promoting among them, at the same time, a sensitiveness to the rights of others, to inspiring them with a determination to secure and protect these rights at all costs, and to stimulating in them a desire to exercise willingly the responsibilities which these rights entail.’

‘Maximum use should be made of the potential of the mass media to promote, through a wider appreciation of other cultures and traditions, a greater respect for other persons and peoples and a more effective recognition of their rights and liberties.’ At the same time ‘vigilance must be exercised... to prevent misuse of mass media...’

‘... It is essential that education for human rights and responsibilities permeate *all* education programmes — both formal and informal — attention being paid not only to pupils and students in the traditional educational institutions but also to the pre-school child, out-of-school youth and the adult, literate or illiterate.’

The role of education was stressed in relation to the ‘teaching of moral value in today’s competitive and acquisitive society’, the combating of racial prejudices, the halting of the escalation of violence in the world and the attainment of peace.

Economic, Social and Cultural Rights

‘... The protection of any human right, and particularly the right to life, is impossible if the individual lacks the minimum

on which his existence depends ; the problem of hunger and economic development is clearly basic.'

'... If economic and social rights are to be respected, states must not only, as in the case of civil and political rights, refrain from violating them, but also create the conditions necessary for their realisation.' 'The denial of economic and of social rights... often results in the violation of civil and political rights... and in many cases causes loss of employment and even freedom.'

The Conference noted 'the necessity for structural reform to facilitate the development of the third-world and the same necessity to enable all peoples inside every country, whether it is developed or developing, to meet their aspirations, especially those which concern economic and social rights'.

Structural reform in agriculture is 'an indispensable precondition to the fight against hunger... and is necessary to ensure that economic and social rights are respected by the vast sectors of the population, men and women alike, in developed or developing countries'.

The Conference supported 'the action of trade unions, whose activities... are not by any means restricted to improving the workers' conditions but make an essential contribution to the protection and promotion of all human rights, from which the community as a whole benefits'.

The Conference underlined 'the importance of full employment, which entails a policy of making the optimum use of human resources ; this is not only an indispensable condition for the expansion of the economy and the raising of living standards, but also realises the individual's desire to make his own contribution to the national economy'.

'The essential role of the family is stressed, along with the need to involve parents in community action. Social action and social policy should be such as to enable the family to fulfill its responsibilities. Programmes for women and/or for youth should be coordinated so as to contribute to the unity of the family and to deal with the complementary needs and functions of the members of the family.'

'... Since the Universal Declaration of Human Rights (1948), cultural rights have acquired a new dynamism and have fast developed into a wider concept embracing not only the right of the individual to participate in the cultural life of the community,

but also the right of various types of ethnic, religious or linguistic groups to enjoy and develop their own cultures and to benefit from the cross-currents of different cultures.'

Non-Governmental Organisations must 'make every effort, each in its own sphere of influence, to create the climate of good will and understanding necessary for the promotion and realisation of cultural rights ...'

Rights of Women

'... Twenty years after the solemn proclamation of the rights of the men and women of the world there still remain many countries, developed as well as developing, in which women are deprived of civil and political rights, of the primordial right to determine their own future, of equal rights over their children, of access to education and culture, of the free right to work, of freedom of movement.'

Women must have equal access to education and be provided with 'vocational and technical training along with competent vocational ... counselling'.

Non-Governmental Organisations should 'make known and disseminate the text of the Declaration on the Elimination of all Forms of Discrimination in regard to Women', unanimously adopted by the General Assembly on 7th November 1967, 'make a united effort to obtain the inclusion in all legislation of provisions recognising the full equality of the rights of men and women' and 'keep watch over the effective application of this equality both in law and in practice'.

The Problem of Race

'"Racism" is everywhere in homogeneous societies.' It is expressed in various ways 'such as discrimination on grounds of sex or religion, antipathy to youth, to a different social milieu, to age, etc. It is a deeply seated prevalent disease of the human psyche and should be studied seriously, and its every manifestation combated constantly'. 'Racism permitted to flourish within the law anywhere in the world will strengthen racism everywhere.'

The ways in which Non-Governmental Organisations can be of practical assistance to governments in multi-racial societies which are concerned to remove 'sources of racial disharmony

and to promote the right of each individual, whatever his ethnic origin, to have an equal opportunity to play a meaningful part in the life of the community' was stressed. For example, the International Commission of Jurists had appointed a Commission of Inquiry at the request of the Government of Guyana which conducted 'an impartial inquiry into the question of racial imbalance in all significant areas of governmental activity' in Guyana. The Recommendations in the Report of the Commission were then embodied in the new Constitution. In such ways, NGOs can provide expert and objective services in human rights issues.

The Conference 'recognises that the deprivation of human rights of the majority of the people of southern Africa by reference to their skin colour has rightly been condemned by international public opinion as the most flagrant violation of human rights today'.

As a useful programme of action for the fight against apartheid, the Conference endorsed the recommendations submitted by the NGOs at the U.N. Seminar at Kitwe, Zambia (1967).

Science and Technology

'Man's health and well being', which Article 25 of the Universal Declaration promotes, 'depends strongly on the quality of the natural environment; Man's activities and the use which he makes of natural resources must maintain and protect his natural environment'. This principle deriving from Article 25 should be internationally recognised.

'The Conference, conscious of the benefits to humanity from progress in science and technology, draws attention to the real risk to the dignity and rights of the individual that may result from the utilisation of such progress. It considers therefore that special attention should be paid to protection against threats arising from the repercussion on human rights of medical and biological experiments and discoveries, the imposition by a technocracy of uniform patterns on traditional group cultures and the inconsiderate use of electronic devices with their attendant dangers to democracy and the right of privacy.'

'... The actual and potential consequences of the utilization of progress in science and technology on human rights should be made the object of an immediate interdisciplinary study on the national and international levels.'

Specific Problems affecting Human Rights

Slavery

The Conference recommended the establishment of permanent machinery within the United Nations with sole responsibility for all aspects of the investigation and assessment of information concerning slavery, and with the task of advising Governments 'on the implementation of the Slavery Conventions'.

Asylum

Special attention must 'now be paid to the concluding of conventions dealing with subjects of urgent humanitarian concern, and particularly that of the right of asylum'.

Prisons and Prisoners

It was recommended that the United Nations should establish a Register of all persons imprisoned, detained or restricted by reason of their political or religious convictions or by virtue of their race, colour, ethnic origin or language, and that as regards prisoners in general 'an appropriate international body should be charged with the task of inspecting prisons and detention camps'.

The Conference further considered that those who struggle against minority racist or colonial regimes which refuse to comply with the decisions of the United Nations and the principles of the Universal Declaration 'should be protected against inhuman or brutal treatment and... if detained should be treated as prisoners of war or political prisoners under international law'.

Air Piracy

The Conference condemned the increasing phenomenon of air piracy, 'and calls upon governments to ratify with all haste the Tokyo Convention relating to illegal acts (crimes) committed on board aircraft'.

Freedom of Conscience and Military Service

The Conference welcomed Resolution 337 of January 26, 1967, by which 'the Consultative Assembly of the Council of

Europe decided that the principle of freedom of conscience... ought to be interpreted as including the right to refuse military service, if such service offends the conscience of the individual'; governments should, if necessary, adapt their legislation on military service accordingly, and the United Nations should be urged to officially adopt this interpretation.

Human Rights in Armed Conflicts

The Conference 'welcomes Resolution XXIII of the Teheran Conference entitled "Human Rights in Armed Conflicts", and urges the revision and better application of conventions and laws relating to warfare, to ensure better protection of civilians, prisoners and combatants in all armed conflicts'.

Essential Role of Non-Governmental Organisations

Non-Governmental Organisations have an essential role to play in promoting education for human rights and responsibilities, in urging Governments to ratify conventions on human rights, in assisting Governments to implement human rights programmes, in helping to diffuse human rights instruments and, generally, in working towards the realisation of the principles arrived at by the Conference.

Ratification of Conventions

Many participants called on France and Switzerland to ratify the European Convention on Human Rights and considered that all States party to the Convention should recognise the Commission's competence to receive individual petitions.

All States that have not done so should now ratify the Convention against Discrimination in Education (1960) and the International Convention on the Elimination of all forms of Racial Discrimination (1965).

The Conference expressed its surprise and 'deep regret that, with three exceptions, none of the international conventions concerning the protection of human rights... has so far been ratified by the majority of member States'. In particular (and the Conference repeatedly referred to this) nearly two years after their adoption, not one State had yet ratified the International Covenant on Economic, Social and Cultural Rights and the

International Covenant on Civil and Political Rights — with its Optional Protocol. States were called upon to do so without delay.

The Conference recommended 'that a special procedure be introduced within the United Nations (similar to that existing in the International Labour Organisation) which would require all States to supply information in relation to conventions concluded under UN auspices, both ratified and unratified'.

Annexes

The Conference was guided by and annexed to the Reports of its proceedings the Conclusions of the UN Seminar held at Kingston, Jamaica (1967), the Montreal Statement of the Assembly for Human Rights (1968), the Decisions of the UN Seminar at Kitwe, Zambia (1967), the Resolution of the Council of Europe No. 337 and Resolution XXIII of the International Conference held at Teheran in 1968.

The quotations above are taken from the Reports of the Working Groups and Plenary Sessions, which were entitled as follows :

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|-----------------------------|---|
| Working Group 1: | An NGO Strategy for the Advancement of Human Rights: The Educational Dimension. |
| Working Group 2: | An NGO Strategy for the Advancement of Human Rights : The Legal Dimension. |
| Working Group 3: | The Dimension of Social Action |
| Working Group 4: | International Implementation Machinery. |
| Working Group 5: | Rights affected by Science and Technology. |
| Working Group 6: | Cultural Rights. |
| Plenary Session I: | Economic and Social Rights. |
| Plenary Session II: | Racial Perspectives. |
| Plenary Session III: | Motivating Forces in the Advancement of Human Rights. |

A complete Report of the Conference is being prepared by the Conference Committee. Those who would like copies should write to Miss A. Zizzamia, World Union of Catholic Women's Organizations, 323 East 47th Street, New York 10017. Charge 75 cents or equivalent payable to Conference of Consultative NGOs.

ICJ NEWS

SECRETARIAT

EXECUTIVE COMMITTEE

The Executive Committee of the International Commission of Jurists met on 28th October 1968 at Strasbourg, at the end of the European Conference of Jurists. One of the major decisions concerning the Commission's work over the next few months was that the Secretariat should publish a comprehensive study of the legal problems raised by events in Czechoslovakia as soon as possible. A recommendation to this effect had been made by the European Conference.

A special effort is to be made in relation to Latin America. Mr. Marino Porzio, member of the legal staff whose field of work is Latin America, is to visit several countries in Central and South America early in 1969. His mission will be to give a new impetus to the fight to uphold the Rule of Law, to create stronger links and to coordinate the activities of members of National Sections and others interested in the Commission's work with the activities of the Secretariat.

ACTION FOR THE RULE OF LAW

World publicity has been given to the trial, which opened on 1st November 1968 in Johannesburg (South Africa) of Laurence Gandar, Editor-in-Chief of the *Rand Daily Mail*, and Benjamin Pogrund, Chief Reporter. They were charged under the South African Prisons Act with publishing false information about prison conditions in articles appearing in 1965. In view of the importance of this trial to the cause of press freedom, the International Press Institute and the International Commission of Jurists instructed a Johannesburg attorney, Joel Carlson, to observe the trial on their behalf.

The International Commission of Jurists published a condemnation of the new draft Constitution for Greece, which is anti-democratic both in letter and spirit, and deplored the conditions under which the referendum had been held: the Government had been able to carry out a large-scale election campaign, whereas the Opposition had been prevented from campaigning at all. Moreover, further trials are taking place, principally of supporters of the Union of the Centre Party. The Commission sent a well-known Swiss lawyer, Professor Edmond Martin-Achard, member and former president of the Genevan Bar, to observe the trial in Salonika (6th to 11th November), in which several jurists were involved. The day before the trial, the Commission received in Geneva a telegramme jointly signed by the accused which said: 'Informed of the presence of your representative at our trial tomorrow — grateful for your interest — confident in the justice of our country.' The judges, who were all Army officers and, apart from the Colonel-President, had had no legal training at all, greatly increased the sen-

tences demanded by the public prosecutor — a civilian — who had asked for sentences ranging from three to ten years' imprisonment. Stylianos Nestor and Sotirios Dedes, attorneys, were given prison sentences of sixteen and a half years and five and a half years respectively; the writer, Pavlos Zannaz, was sentenced to ten and a half years; the economist, Georges Siptanos, to seven and a half years; Argyrios Maltidis, engineer, and Professor Nicolas Pyrzas to five and a half years. The report of the Commission's observer will be published as soon as possible.

Lastly, the International Commission of Jurists made an urgent appeal to the government of Congo (Kinshasa) to save the life of Mr. Mulele, sentenced to death by a more than summary procedure and in circumstances giving rise to the greatest concern.

INTERNATIONAL MEETINGS

The Secretary-General of the Commission, Mr. Seán MacBride, took an active part in the symposium held at Salzburg (Austria) from 9th to 12th September and organized by the Assembly of the Council of Europe, on 'Human Rights and Mass Communications'. He was invited as an expert to the special Meeting of the Consultative Assembly of the Council of Europe (26th September) in celebration of International Year for Human Rights, during which he made an important speech. On 7th November, he gave a lecture in honour of Human Rights Year at Stockholm (Sweden) at the request of the Swedish Committee for UNESCO. On 9th and 10th November, he attended the annual general meeting of the International Federation for Human Rights in Paris. He was also one of the guests of honour at the regional conference on Human Rights held at Beirut (2nd to 10th December) in celebration of Human Rights Year by the League of Arab States. Again in honour of Human Rights Year, the Geneva Department of Education and the Secretariat of the Swiss Committee for UNESCO organized a seminar for members of the teaching profession at Cartigny (near Geneva) on 6th and 7th December. The Commission was represented by three members of its legal staff, Mrs. A. J. Pouyat, Mr. R. Kellerson and Mr. Daniel Marchand.

The International Young Lawyers Association held its sixth Congress from 7th to 11th October at Barcelona under the patronage of the Barcelona Bar. The Commission was represented by Mr. M. Porzio. Mr. Porzio also represented the Commission at the Congress held in Grado, near Trieste (Italy) (22nd - 26th September), by the International Center of Studies for the Protection of Human Rights, whose headquarters is at Pesaro (Italy).

NATIONAL SECTIONS

MEETING OF EUROPEAN SECTIONS

A meeting of European Sections of the Commission was held on 27th October 1968 at the Council of Europe in Strasbourg, at the end of

the European Conference of Jurists. All the Sections were represented (Austria, Belgium, Denmark, Finland, France, the Federal Republic of Germany, Ireland, Italy, the Netherlands, Norway, Sweden, Turkey and the United Kingdom) with the exception of the Greek Section — for obvious reasons. The Cypriot and Icelandic Sections, which are still being formed, were unfortunately financially unable to send representatives. The object of the meeting was to enable Sections which are geographically far apart to strengthen contacts and coordinate activities.

The Secretary-General of the Commission, Mr. Seán MacBride, opened the discussions by outlining the stand that the Commission has taken or is taking on important world events, especially in relation to Europe. In particular, he paid tribute to the dynamism of the Austrian Section and to the assistance it has given to lawyers from Czechoslovakia after the tragic events there. In this connection, the meeting adopted a special motion, whose text will be found elsewhere, endorsing the initiatives of the Commission and asking it to continue its action.

Interesting and fruitful discussions then took place on a large range of topics, in which representatives of all Sections took part. It was strongly recommended that all Sections should launch a vigorous recruitment campaign, placing the greatest emphasis on young jurists whose dynamism would be particularly valuable.

While fully in favour of bilateral meetings, such as those held by the French and English Sections, and of the enlarged bilateral meetings of, for instance, the Austrian and German Sections, the participants considered that general meetings of European Sections, such as that held at Strasbourg, were particularly useful. It recommended that such meetings should be held once a year or every two years, dependent on the resources available. In order that the maximum value should be gained from such meetings, it was thought that they should be held over a longer period and that they should discuss a specific and carefully delimited subject which would be thoroughly prepared well in advance and which could, in consequence, be studied in great depth. The German Section offered to be the host of the next meeting, which it is hoped will be held in about a year. This was enthusiastically accepted by the meeting.

INDIA

The Indian Commission of Jurists is continuing its process of expansion. Three new local Sections have recently been formed in Lucknow, Madras and the State of Uttar Pradesh respectively. The Governor of Madras, the Chief Justice of India, Mr. Vivian Bose (Honorary President of the Commission), Mr. Justice T. S. Fernando (President of the Commission) and many leading members of the Indian Judiciary and Bar attended the inauguration of the Madras Section on 21st October 1968.

The International Commission of Jurists is a non-governmental organization which has Consultative Status with the United Nations, UNESCO and the Council of Europe. It is also on the International Labour Organisation's Special List of NGOs. The Commission seeks to foster understanding of and respect for the Rule of Law. The Members of the Commission are:

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