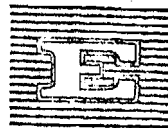


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Agenda item 8

SLAVERY

Concise summary of the information supplied in  
accordance with resolutions 238 (IX), 276 (X),  
388 (XIII), 475 (XV) and 525 A (XVII)

RAPPORTEUR: MR. HANS ENGEN (Norway)

The Secretary-General has received the attached report prepared by Mr. Hans Engen pursuant to resolution 525 A (XVII) of the Economic and Social Council, and has the honour to circulate it herewith to the Economic and Social Council.

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## INTRODUCTION

1. The Council at its seventeenth session adopted, on 29 April 1954, resolution 525 A (XVII), on slavery, which reads in part:

"The Economic and Social Council,

"Considering that the information supplied in accordance with Council resolutions 238 (IX), 276 (X), 388 (XIII) and 475 (XV) is not in such form as to give a clear and concise statement as to the extent to which slavery and practices resembling slavery exist in the world today,

"Noting that all replies to the questionnaire have not yet been received,

"1. Urges all governments which have not yet done so to reply, at an early date, accurately and fully to the questionnaire already transmitted to them, and invites the other governments to forward any additional data or information which they may think it necessary or appropriate to submit;

...

"4. Decides to appoint the Permanent Representative of Norway to the United Nations, His Excellency Mr. Hans Engen, as Rapporteur to prepare a concise summary of the information supplied in accordance with the resolutions referred to above and the present resolution and of any relevant information supplied by the International Labour Organisation, for consideration at the nineteenth session of the Council;

"5. Requests the Secretary-General to place the report of the Rapporteur on the agenda of the nineteenth session of the Council..."

2. This report has been prepared by the Rapporteur for submission to the Council in accordance with the above-quoted resolution. The materials it contains have been selected after careful examination of all the information supplied in accordance with resolutions 238 (IX), 276 (X), 388 (XIII), 475 (XV), and 525 A (XVII). This information appears in the documents listed in the Annex which follows this report. The Rapporteur considers all of the documents so listed as constituting an integral part of the report. They are, however, not reproduced in their entirety either in the body of the report,

or in the Annex, in view of resolution 593 (VI) of the General Assembly, on control and limitation of documentation.

3. In making his selection of materials, the Rapporteur has acted in a purely individual capacity and not as a representative of his Government. He has endeavoured to extract from the mass of documentation already before the Council only those statements which in his view would assist the Council in surveying the extent to which slavery, and practices resembling slavery, exist in the world today. In the opinion of the Rapporteur, the Council, when it passed the above-mentioned resolution, did not envisage any evaluation or verification by the Rapporteur of the substance of this documentation. In fact, the short time allotted to the Rapporteur for the preparation of this summary of documentation, which in certain respects is incomplete and unverified, would have rendered such a task impossible to accomplish. Therefore, the Rapporteur is unable to assume any responsibility for the authenticity of the materials here presented. However, the source of each extract, as well as the documents in which its unabridged text may be found, is in all cases clearly indicated.

4. Moreover, on 30 November 1954 the Rapporteur submitted to all Governments directly concerned the full text of the extracts which were to be embodied in the report and requested their comments. In reply, comments were received from the Governments of the following countries:

States Members of the United Nations<sup>1/</sup>

Australia	Netherlands
Belgium	Philippines
China	Syria
Ecuador	Thailand
El Salvador	United Kingdom of Great Britain and Northern Ireland
Guatemala	United States of America

Non-member State

Japan

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<sup>1/</sup> The Governments of Afghanistan and Colombia informed the Rapporteur that their comments would be forthcoming. These comments when received, together with comments or supplementary information which may be received from the Governments of other countries directly concerned, will be circulated to the Council as addenda to this report.

These comments have been taken into account in the body of this report in direct connexion with the relevant extracts. Thus the only new information in this report, in addition to that already before the Council, is contained in these comments.

5. The materials which the Rapporteur herewith presents to the Council have been extracted from the following sources:

- (a) the replies of Governments to the United Nations Questionnaire on Slavery and Servitude, prepared by the Ad Hoc Committee on Slavery (E/AC.33/10 and Adds.1-99; E/2548 and Adds.1-6);
- (b) the ancillary memoranda prepared individually by Mr. Poblete Troncoso, Madame Jane Vialle, Mr. Bruno Lasker and Mr. C.W.W. Greenidge, members of the Ad Hoc Committee (E/AC.33/R.11, 12, 13 and 14);<sup>1/</sup>
- (c) the materials furnished by non-governmental organizations and experts;<sup>2/</sup> and

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<sup>1/</sup> The four ancillary memoranda, prepared individually by the members of the Ad Hoc Committee, are described as follows in paragraph 22 of the report of the second session of that Committee (E/1988):

"Each member of the Committee undertook primary responsibility for study of that region of the world best known to him, and prepared a memorandum summarizing his conclusions with respect to the existence of slavery or other forms of servitude in that region at the present time (May 1951). Mr. Poblete Troncoso dealt with the Americas (restricted document E/AC.33/R.12); Madame Vialle with Central and Southern Africa (restricted document E/AC.33/R.13); and Mr. Lasker with Asia, Oceania, and Australia (E/AC.33/R.11). Because of the lack of time, the Committee did not consider these individual memoranda or adopt them as its own. It decided, however, to draw them to the attention of the Economic and Social Council without assuming any collective responsibility for their contents. Mr. Greenidge prepared a more comprehensive memorandum which the Committee considered an interesting and valuable study, but did not have the time to examine in full (restricted document E/AC.33/R.14). Mr. Greenidge considered his study to be a 'Minority Report'. The Committee decided to draw it to the attention of the Council without assuming any collective responsibility for its contents."

<sup>2/</sup> Materials submitted by non-governmental organizations and experts up to the close of the second session of the Ad Hoc Committee on Slavery were made available to members of the Committee, and used by them in the preparation of their report and ancillary memoranda. Materials submitted by non-governmental organizations in compliance with resolution 475 (XV) were transmitted to the Council in documents E/2548 and Adds.1-6.

(d) the materials supplied by the International Labour Organisation.<sup>1/</sup>

6. The materials which the Rapporteur has eliminated from the body of his report, in order to make it as clear and concise as possible, include:

(a) those which do not describe a practice which may be considered as slavery, the slave trade, or a form of servitude resembling slavery in its effects;

(b) those which do not refer to any specific country or territory, or which refer to vague geographical areas (such as "The Far East" or "The Americas"); and

(c) those which are of purely historical interest and do not throw any light upon the present state of affairs.

However, all such materials may be found in the documents listed in the Annex which follows the report. As stated above, the Rapporteur considers these documents as constituting an integral part of the report.

7. The Rapporteur has included in this report only those statements, extracted from the information supplied in accordance with resolutions 238 (IX), 276 (X), 388 (XIII), 475 (XV) and 525 A (XVII), which indicate that slavery, the slave trade or other forms of servitude, or vestigial remnants of these institutions or practices, subsist or may subsist in certain specified countries or territories of the world despite all measures taken to eradicate them.

8. The selected materials are arranged according to subject matter. Following in so far as possible the main divisions of the Questionnaire on Slavery and Servitude, and the manner in which replies to this Questionnaire and supplementary information were furnished by Governments, the Rapporteur has grouped these materials under six substantive headings as follows:

- I. Slavery (including "domestic slavery") and the slave trade;
- II. Serfdom (compulsory and hereditary attachment to land accompanied by obligations to render service to the landlord);
- III. Traditional forms of unpaid or underpaid service exacted by land owners and other employers of labour, or their agents;

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<sup>1/</sup> Contained in the study Indigenous Peoples (Geneva, 1953), and in Industry and Labour (November 1953 issue).

- IV. Debt bondage (including pledging and pawning of third persons as security for debt);
- V. Exploitation of children, notably under the guise of adoption; and
- VI. Purchase of wives and inheritance of widows, involving involuntary subjection of a woman to a man not of her choice.

9. Some of the institutions or practices described in the available materials were found not to lend themselves easily to such classification. In a number of border-line cases the Rapporteur, in order to avoid duplication and repetition, decided to place them under one heading only, selected as the most suitable, and to make cross-references where necessary.

10. It will be noted that the list of substantive headings does not include "Forms of prostitution of women and children involving exercise of ownership over them", envisaged in the Questionnaire on Slavery and Servitude as a distinct subject of study. This is because, although the available materials contain numerous statements on the evils of the traffic in women and children for the purpose of prostitution, these statements for the most part do not relate to "forms of prostitution... involving exercise of ownership..." However, the United Nations has already dealt with prostitution "in all its forms" in the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, approved by the General Assembly by resolution 317 (IV) of 2 December 1949.

11. The Rapporteur draws the Council's attention to the fact that no reply to the Questionnaire on Slavery and Servitude has as yet been received from the following countries or territories:

Members of the United Nations

Liberia, Nicaragua, Paraguay, Saudi Arabia, and the Ukrainian SSR<sup>1/</sup>

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<sup>1/</sup> Although the Government of the Ukrainian SSR did not reply to the Questionnaire on Slavery and Servitude, the attention of the Council is drawn to the reply of the Union of Soviet Socialist Republics (E/AC.33/10/Add.51), informing the Secretariat "that the problem of slavery... does not arise in the Soviet Union".

Non-member States and territories

Albania, Andorra, Republic of Korea, the Sultanate of Muscat and Oman, Portugal and territories under its jurisdiction,<sup>1/</sup>  
Romania and San Marino.

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<sup>1/</sup> On 9 August 1951 the Portuguese Embassy in Washington stated in its reply to the Secretary-General's note of 14 December 1950, transmitting the Questionnaire on Slavery and Servitude, that "... in view of the fact that Portugal is not a member of the United Nations, the Portuguese Government feel that the questionnaire... goes somewhat beyond the scope of the relations which at present exist between Portugal and the United Nations and for this reason regret that they are precluded from giving a direct reply to the said note..." (E/AC.33/10/Add.71).

## CHAPTER I

### MATERIALS RELATING TO SLAVERY (INCLUDING "DOMESTIC SLAVERY") AND THE SLAVE TRADE

12. From the information supplied in accordance with Council resolutions 238(IX), 276 (X), 388 (XIII), 475 (XV) and 525 A (XVII), the Rapporteur has extracted the following statements relating to slavery (including "domestic slavery", and the slave trade):

#### AFGHANISTAN<sup>1/</sup>

13. In his ancillary memorandum (E/AC.33/R.11, p. 5), Mr. Lasker states that:

"The economy of the mountain countries bordering upon Pakistan and India is such as to make slavery an unprofitable use of labour power. Nevertheless, it has since ancient times been part of both indigenous and imposed social systems... In Afghanistan, a term meaning 'slave' still attaches to a certain servile class, mainly composed of descendants of slaves engaged largely in domestic service and the care of animals..."

#### BELGIUM<sup>2/</sup>

(Belgian Congo and Ruanda-Urundi)

14. The Government of Belgium, while stating in its first reply to the Questionnaire that slavery, as defined in article 1 of the International Slavery Convention of 1926, "no longer exists in the Congo", and that "the same applies to the slave trade; it no longer exists" (E/AC.33/10/Add.27), attached to its second reply (E/AC.33/10/Add.31, pp. 5-6) an extract from the "Manual for the Use of Officials and Agents of the Territorial Service of the Belgian Congo"<sup>3/</sup> containing a statement concerning an institution referred to as "domestic slavery". In commenting on this extract in a letter to the Rapporteur

<sup>1/</sup> For the reply of Afghanistan to the Questionnaire see E/AC.33/10/Add.72 and E/2548, Section 1. In a letter dated 27 December 1954 the Permanent Representative of Afghanistan to the United Nations indicates that the comments of his Government on this statement will be forthcoming.

<sup>2/</sup> For the reply of Belgium to the Questionnaire see E/AC.33/10/Add.27, 31 and 93.

<sup>3/</sup> Also applicable to Ruanda-Urundi (see E/AC.33/10/Add.93, p. 3).

dated 27 January 1955, the Permanent Representative of Belgium to the United Nations stated that "in order accurately to appreciate the meaning of the instructions in the manual..., it should be borne in mind that the most recent edition dates back to 1930". The extract is as follows:

"Domestic slavery is a condition rooted in native custom whereby, through the will of another, through birth or through his own will, a person is placed in relationship to another person similar to that which exists between a thing and its owner.

"Although, speaking very generally, slaves are well treated by their masters and are regarded as forming part of his family, and although it is only in the exercise of customary civil rights that a slave differs from a free man, the Government endeavours to suppress domestic slavery as being incompatible with our ideas of human liberty. Under the Colonial Charter, moreover, it is its duty to do so. The Government, however, considers that radical legislative measures will not be successful.

"Rather, the Government looks to indirect measures and notably to economic progress as likely to lead to the disappearance of this institution.

"What is the present legal position?

"Slavery is not recognized by law; the rule of customary law relied on by the master of a slave is contrary to public order; no one, therefore, may expect the administrative or judicial authorities to support him in establishing his claim to ownership over another person, and, moreover, every person has the right to the status of a free man.

"While extending to slaves its protection with regard to the integrity of their person and property, and to their freedom, the law does not regard as an offence the possession of slaves or dealings in slaves, provided, however, that the persons concerned voluntarily agree to form the object of such transactions.

"The following are punishable offences: the abduction by means of violence, fraud, or threats of any person for the purpose of trade or slavery, the receiving, conveying or transportation of slaves obtained by abduction or trade, trade in such slaves (Decree of 1 July 1891), and acts whereby a person disposes of others placed under his authority for sale as slaves (Penal Code, Section 68).



"In other words, the law counteracts by means of penalties the most common methods of creating new cases of slavery against the will of the persons concerned, but leaves it to native social progress to bring about the emancipation of the old slaves.

"The authorities must, by all means at their disposal, encourage the influences leading to this progress.

"For example, the influence of the missions which are gradually disseminating among the natives the idea of the rights inherent in the human person; the decrees which are destroying the prestige of slavery by imposing the same obligations (census, capitation tax) upon all natives, whether free or slaves; the decree concerning the militia, under which the natives have to live for a long period away from their village and whereby the bond between slave and master is broken.

"Above all, the development of economic undertakings will increasingly lead to the de facto emancipation of the slaves.

"If slaves have hitherto not availed themselves of freedom, the reason was that they feared that emancipation would deprive them of the means of livelihood. The demand for labour of the European undertakings makes it possible for the slaves to find a livelihood by means other than the state of servitude."

15. The following additional statement on the Belgian Congo, and Ruanda-Urundi, was transmitted to the Secretary-General by the Belgian Government in its third reply (E/AC.33/10/Add.93, p. 3):

"Our colonization deprived slavery of its strength by refusing to recognize it and by putting an end to its sources, and it has practically disappeared! This situation is the result of the strict legislative provisions adopted over a period of more than fifty years (decree of the King Sovereign of 1 July 1891 to suppress the slave trade and article 11 of the decree of 26 May 1888, which has become article 68 of the present Penal Code).

"With regard to the rare cases of domestic slavery which may still exist, the indigenous courts cannot sanction slavery, which is a custom contrary to public order. There can be no question of their decreeing the restitution of a slave, granting an indemnity to the owners of slaves, etc. If a slave claimed his freedom, no decision would be required on that point; the court could do nothing but take note of the liberation of the slave.

"The courts' intervention on those lines and the development of economic undertakings which have in effect brought about the general emancipation of former slaves make it possible to state that cases of slavery in the Belgian Congo and Ruanda-Urundi have become very exceptional."

16. The Government of Belgium, in its first reply to the Questionnaire (E/AC.33/10/Add.27) indicated in response to question 3 that "Full information concerning slavery in the Congo may be found in a study made by Messrs. E. de Jonghe and J. Vanhove and published recently under the auspices of the Royal Belgian Colonial Institute. A copy of this study is attached to this note. The introduction and conclusions deal specifically with the problem of slavery".

17. In commenting on the extracts which follow, the Permanent Representative of Belgium to the United Nations, in a letter to the Rapporteur dated 27 January 1955, wrote: "I am instructed by my Government to draw your attention to the fact that the work by de Jonghe and Vanhove... no longer reflects the present situation. It summarizes the results of investigations conducted in 1935 and 1936, the publication of which was delayed by the war. The customs recorded in this volume for their historical value have so far evolved in recent years that the information it embodies is today of retrospective value only... It should be explained, moreover, that even then the two authors drew attention to the rapid evolution of indigenous ideas once the first progress had been made, which, though relatively hard to achieve, had then spread like oil on water. Domestic slavery is in practice only a memory now, and its last manifestations are hard to detect because de facto emancipation has in fact become general..."

18. The study by de Jonghe and Vanhove<sup>1/</sup> contains the following statements:

"Slaves captured in war (pages 79 to 83): Before the pax belgica was established, ... it was customary for nearly all the Congo peoples

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1/ Forms of Slavery in Indigenous Societies in the Belgian Congo, by E. de Jonghe, Honorary Director-General at the Colonial Ministry, Professor at the Catholic University of Louvain, member and Secretary-General of the I.R.C.B., in collaboration with Julien Vanhove, Counsellor at the Colonial Ministry, Professor at the Institut Universitaire des Territoires d'Outre-Mer. Brussels, 1949, 184 pages.

to make slaves of those who were defeated in the cruel wars between tribes or between clans and villages of the same group.

"The master often used his captives as a means of exchange; he sold them..., transferred them as security for a debt, or gave them in payment of a bride-price...

"Among the Bambala, Mundji, Gombe, Bakete and Badjok, the descendants of slaves are still slaves. Their position is the same among the Bazimba and Bashilele; to this day, ... among the Bashilele, the bride-price for a slave girl (bukolomo) is still paid in the form of another bukolomo.

"According to Father Denolf..., among all the Sankuru tribes a slave is still a chattel, as in the past,...

"But although they are still slaves and consider themselves as such, these descendants of slaves are content with their lot, which they refuse to change for another. They could be freed immediately, merely by drawing the attention of the European authority to their position, but they prefer a reasonable form of slavery where they are not ill-treated and are given real family protection, to being left to themselves to face the struggle for existence.

"Purchased slaves (pages 83 to 86): Formerly ... it was common for slaves to be bought and sold...

"Even to this day, it is obvious that the Bakuba buy many women, particularly Baluba, although they deny it before our territorial officials. Some of these (nyada kana) were still slaves until recently, but they are now regarded as free; the others (muete) are given hardly more consideration than a mere object...

"There used to be regular slave markets on definite dates and in specific places; some of these merely facilitated the inter-tribal slave trade but others, particularly in the eastern Congo, were also frequented by the Arab slave traders...

"The buying and selling of slaves has fallen off considerably. However, there is still some illicit slave traffic among certain peoples and tribes.

"Father J. Mertens reports that some slave markets are still operating fairly actively, at Kilwandja for instance,...

"Slaves for debt (pages 90 to 96): ... The custom of reducing a debtor to slavery for an undischarged debt resulting from a loan, a theft, the destruction of someone else's property, etc., exists among most of the indigenous peoples of the colony...

"Slavery for debt is still frequent among the eastern Bakongo and the Badzing, and in some other groups, such as the Bateke...

"Proportion of slaves to free men (page 158): It is very difficult to ascertain the present size of the slave population. Furthermore the Belgian occupation has certainly much reduced the number of slaves, but no accurate statistics are available on this point. The reason for this lies in the usual difficulties inherent in social enquiries among the indigenous inhabitants, such as the lack of trained personnel and the silence or elusiveness of the blacks questioned; masters who pretend that slaves are their own children, slaves who, out of respect, under the influence of intimidation, or merely because they are content with their lot with a humane master, are careful to make no mention of their position as slaves when in the presence of officials, etc.

"The peoples who have the largest proportion of slaves still seem to be the Bakuba, the Badjok, the Basala Mpasu, the Basonge, the Bazimba, the Booli and the Bashilele in that order...

"Conclusions (pages 166 to 176): At the present time, there is an increasingly strong movement for the emancipation of individuals, particularly among the male population.

"The difference between a slave and a free man is therefore becoming less and less clear cut. Following our example, the blacks are beginning to replace slavery by domestic service...

"The present situation with regard to slavery is therefore as follows: The Belgian occupation has led to the progressive emancipation of male slaves. Those who stay with their masters are content with their lot and do not wish to change their way of life. In order to prevent the flight and dispersal of their bondmen, the masters have adapted themselves to the new conditions brought about by colonization and have given their slaves a more flexible status. Thus, as concession has followed concession, slavery has been transformed into a system of willing allegiance. If these conditions are not met, the slave does not hesitate to run away or to demand his emancipation from the indigenous courts...

"The emancipation of female slaves, on the other hand, is still a somewhat delicate task.

"Although there has been no appreciable change in their status since the beginning of the Belgian occupation, they are treated in almost the same way as free women. In order to improve their status, it would therefore be necessary to campaign for the for the emancipation of indigenous women in general. But such an enterprise must be undertaken with caution, for the women themselves, who are the most directly interested persons, would not understand why we should wish to change a state of things which they passively, if not willingly, accept...

"Our enquiry clearly shows that slavery is not a simple cultural phenomenon that can be isolated from the civilization in which it occurs and develops. It must be studied and understood in relation to the other cultural phenomena and complexes with which it is more or less bound up...

"Our enquiry has revealed the existence of slavery among the peoples who get their living primarily from crops hand-hoed by women, and secondarily from hunting, which is done only by men, but it does not exist everywhere on the same scale.

"Slavery has generally been defined either as the existence of a social class comprising individuals without personality who are the chattels of a master, similar to personal property or cattle, or as an industrial system employing unpaid labour subject to the heaviest toil.

"Neither of these definitions completely fits the types of slavery revealed by our enquiry, nor does the distinction usually drawn between foreign and indigencus slaves. The former, who are also called extra-tribal slaves, are supposed to be former prisoners of war or individuals bought in the slave markets; the latter, the intra-tribal slaves, are slaves for debt, crimes etc.

"In the Congo, these two categories are usually treated in the same way...

"Like chattel slavery, domestic slavery in the form we have described appears to be a social institution. It is in harmony with the system of social, economic, religious and political values of the peoples that practise it. It creates new value symbols and the slave tends to be absorbed..."

COLOMBIA<sup>1/</sup>

19. The ILO publication, "Indigenous Peoples",<sup>2/</sup> contains the following statement<sup>3/</sup> (pp. 386-387):

"The Case of the Goajiro Indians. Virginia Gutierrez de Pineda has given a description of the trade in Indian slaves and serfs allegedly carried on in some parts of La Goajira (Colombia and Venezuela) according

<sup>1/</sup> For the reply of Colombia to the Questionnaire see E/AC.33/10/Add.37 and E/2548, Section 12.

<sup>2/</sup> Indigenous Peoples: "Living and Working Conditions of Aboriginal Populations in Independent Countries". ILO, Geneva, 1953. 628 pages.

<sup>3/</sup> In a telegram addressed to the Rapporteur, dated 4 January 1955, the Colombian Ministry of Foreign Affairs indicated that the observations of the Government of Colombia on this statement will be forthcoming.

to which servitude among the Goajiro Indians and the slave trade derived from it stem from social factors (inter- or intra-tribal status, war, etc.) and from economic factors (the enrichment of chiefs, and the poverty of Indian families resulting from droughts which are the scourge of this region).

"To substantiate her allegations the writer in question included the following information in a survey published by the National Ethnological Institute of Colombia. The trade in Indian slaves is carried on between: (a) Indians, (b) Indians and whites, and (c) whites.

"The first case is said to involve the sale of girls and young women for domestic service (cooking, wood carrying, gathering forest fruits, etc.), or as wives for free Indians. With the financial backing of the Government the Capuchin Mission, through its establishments in Nazaret and Riohacha, buys back the slave girls so as to educate them in its orphanage and subsequently restore their freedom. The sale of young persons is alleged to be a rich source of income to the chiefs and to be carried on by the people of the department of Magdalena (Colombia), Venezuela and the neighbouring islands.

"In the second case young men are reported to be sold as workers in the Netherlands Islands of Aruba and Curaçac 1/ or in the cocoa or sugar plantations of cattle ranches in the department of Magdalena or in Venezuela. According to one practice '... the Indian slave is marked with the estate owner's sign, loses his Indian name and is called by his master's name or by that of the estate in which he works.' The writer in question also gives the following account of the trade in serfs:

'During the fierce summers that are the scourge of the Goajira peninsula... the sale of human beings increases in intensity ... poor families are obliged to rid themselves of their surplus members, especially of those who cannot contribute to their own maintenance, with the object of freeing themselves of this burden and at the same time increasing the income of the rest of the family. The serfs are sold for service abroad in Venezuela and the Netherlands islands, and inland in the towns of Barranquilla, Riohacha, Santa Marta and a large part of the department of Magdalena for cattle ranches; the trade is between Indians and whites ... In Venezuela the serfs are employed as field labourers on the estates, which suffer from a shortage of manpower because of competition from the nearby oilfields and ports where work is better paid. The women... are used for domestic work... At the present time enganchadores - the owners of estates or overseers - also come from Venezuela to purchase serfs for agricultural work.'

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1/ See also paragraph 23, below.

"According to the same survey the servitude of Indians in the Jarará mountain region is frequently attributable to hunger. Provoked by the lack of food in periods of drought, the Indian is forced to sell his child to save him from starvation; sometimes, for stealing livestock, he has to pay back the owner with one of his sons or daughters."

ECUADOR<sup>1/</sup>

20. The following material on "slavery in the classic sense" was transmitted by the Delegation of Ecuador to the United Nations in response to the Rapporteur's letter of 30 November 1954, although the extracts attached to the Rapporteur's letter did not relate to slavery in this sense. The material is reproduced here in view of the fact that, as in the case of other replies to the Rapporteur's letter, it has not previously been circulated in a United Nations document.

"Ecuador is one of the oldest opponents of slavery in the classic sense, i.e., the form defined in Article 1 of the 1926 Geneva Convention. Ecuador enacted legal measures to abolish slavery, which is an institution inconsistent with its ethical beliefs and its historical traditions, long before some countries in Europe and the Americas.

"The steps taken in Ecuador with regard to slavery date back to the period before the country attained political independence and was constituted as a State. I would draw attention to the fact, that, although the enslavement of men and their treatment as chattels were commonly accepted practices in Europe during the period in which Ecuador was a part of the Spanish Empire, the cruelty of this European custom had been mitigated by the Spanish legislation in force in the Americas. One example suffices - the Cédula Real of 31 May 1789 which set restricted hours of work, established measures of protection for slaves and decreed the prohibition of mutilation or bloodshed. Before it became an independent State, Ecuador formed part of the State of Gran Colombia set up by Bolivar and the Act which decreed the gradual abolition of slavery was in force in its territory from 25 July 1821 onwards. When Ecuador became an independent State in 1830, it carried on its anti-slavery tradition and in 1852 enacted the Emancipation and Manumission of Slaves Act. Before this decisive measure, it had signed a treaty with Great Britain on 24 May 1841, in which it committed itself to treat as pirates slave traders on its coasts and within its territorial waters.

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<sup>1/</sup> For the reply of Ecuador to the Questionnaire see E/AC.33/10/Add.30, and E/2548, Section 18.

"I venture to point out these facts inasmuch as the policy followed by Europe in the period between 1841 and 1855, with the Paris Peace Treaties of 1814 and 1815, the Declaration of the Treaty of Vienna of 1815, the Declaration of Verona of 1822, the Conventions between Great Britain and France of 1831 and 1833, the Treaty of London of 1841 and others, merely sought to suppress the slave trade, but not the institution of slavery itself, whereas in Ecuador its progressive abolition had already been decreed in 1821 and its final abolition, in 1852. In the latter year, the institution of slavery, established by Europe to maintain its system of colonial exploitation, was abolished in Ecuador, which, like all the Latin American countries, is based on a democratic, free egalitarian and humane concept of human life."

FRANCE  
(Morocco Protectorate)

21. The Government of France states in its reply to the Questionnaire (E/AC.33/10/Add.42, pp. 10-13):

"... The measures taken by France since the Protectorate have led either to the formal liberation of many slaves or to the generalization of practices such as marriages at the suit of the owners, or the granting of wages in kind or even in money. Nevertheless, it is undeniable that many families of the Moroccan upper bourgeoisie retain in their service a number of persons who, without being slaves in the strict sense of the word, constitute a part of the family inheritance. They are usually the children of unions between slaves or of concubinage between members of the family and slaves, and remain attached to these families, in which they are not treated badly...

"The public [slave] markets were prohibited in 1913 and in 1917 the adouls were prohibited by a dahir to register any deeds of sale relating to slaves"

....

"A circular of the General Secretariat relating to application issued at the time instructed the control authorities not to admit any proceedings before the Caid or the Cadi in respect of the sale of slaves. The circular also ordered that an escaped slave who appeared before the Cadi, or whose owner did not claim him, was automatically free.

"Moreover, by a residential letter of 1 June 1927 to the regional chiefs, Mr. Steeg recalled that the civil police should act only on behalf of a slave who placed himself under its protection, and not on behalf of a slave owner making his claim...



"It has not been possible to take any further legislative or administrative steps without violating the intimacy of the Moslem family, a matter in which the Protectorate Treaty requires us to proceed with the utmost caution, and without a risk of causing certain discontent. Thus the practical improvement of the position of persons whose freedom is still restricted should be credited mainly to the patient action of the control authorities. However persuasive this action may be, it still collides too often with the backward and deeply-rooted notions of the old Moslem bourgeoisie, which furnishes its own evidence of its slow rate of development in this respect. Nevertheless, it should be realized that the transformation of the economic conditions of its existence is gradually breaching and modifying the traditional convictions and customs of that bourgeoisie, so that it may already be said that the term 'slave', which has not wholly disappeared, now has a merely terminological significance. There can be no doubt, however, that if the Protectorate were abolished, the former practices would soon revive - to say the least, our efforts considerably mitigated the effects of these practices - and the freedom of the person would suffer a distinct setback."

INDIA<sup>1/</sup>

22. In his ancillary memorandum (E/AC.33/R.11, p.10) Mr. Lasker states:

"... The present Government of India and several of the provincial governments have benefited from numerous government-sponsored and private studies, both Indian and British, and including the findings of several Royal Commissions, in the development of positive programmes for the elimination of the last clandestine remnants of slavery and near-slavery, remnants which suppressive measures alone have failed entirely to wipe out. Not only do old tribal practices akin to slavery survive, but in some districts the position of certain 'depressed classes' was even in recent times almost indistinguishable from that of community-owned slaves. This status has now disappeared in law; but the Governments concerned realize that it will take long and comprehensive programmes on many social and economic fronts to provide the basis for a society of free men and women. Many of these programmes have already been enacted into law and, in spite of great financial difficulties, have been given a promising start."

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1/ For the reply of India to the Questionnaire see E/AC.33/10/Add.70; E/2548, Section 28; and E/2548/Add.6.

NETHERLANDS<sup>1/</sup>  
(Aruba and Curaçao)

23. A reference to the alleged sale of young Indians from Colombia as workers in the Netherlands islands of Aruba and Curaçao appears in paragraph 19, above. In a letter addressed to the Rapporteur by the Permanent Representative of the Netherlands to the United Nations, dated 10 January 1955, it is stated that "the allegations of Virginia Gutierrez de Pineda, as quoted in the ILO publication, 'Indigenous Peoples', ... are completely unsubstantiated. No fact is mentioned anywhere, either by herself or by the publication of the National Ethnological Institute of Colombia which she in turn quotes, to confirm her statements."

SAUDI ARABIA<sup>2/</sup>

24. The Anti-Slavery Society, a non-governmental organization in Category B consultative status, states (E/2548, Section 47) that:

"There is no doubt that the status of slavery exists in Saudi Arabia. Many European residents in Saudi-Arabia in the past fifteen years, sympathetic to the way of life of the inhabitants of that country, have testified in books written by them to that fact. Eldon Rutter, who has spent a great part of his life in Saudi Arabia, in his book, The Holy Cities of Arabia, and in a lecture which he delivered to the Royal Asian Society in London in 1933, said, 'Slavery exists in every part of Arabia, except Aden,<sup>3/</sup> as a normal social institution, but I have only seen one slave market where slaves are displayed in a public place like merchandise. That was in Mecca in a narrow street called the Suk el Abed. In all the other towns and villages, including the Persian Gulf towns,<sup>4/</sup> the slaves are sold privately. In some places there are dealers who keep a definite stock of slaves; in others there are merely agents who dispose of any slave whom a person may wish to sell'.

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<sup>1/</sup> For the reply of the Netherlands to the Questionnaire see E/AC.33/10/Add.28 and 82; and E/2548, Section 37.

<sup>2/</sup> The Government of Saudi Arabia has not replied to the Questionnaire, nor has it commented on the materials presented below which were submitted to it by the Rapporteur's letter of 30 November 1954.

<sup>3/</sup> In respect to the Aden Protectorate, see below, paragraphs 29 and 30.

<sup>4/</sup> See below, paragraph 31.

"Colonel Gerald de Gaury, who has received high honours from King Ibn Saud, says in his book Arabian Journey, published in 1950 (p. 89), 'Slaves are still sold in Saudi Arabia... The chief market is in the Sug at Suwaigua in Mecca (of which Eldon Rutter published a description), and the main route for them is to Mecca from the Yemen, to which they are brought in sailing boats from the opposite coast of Africa'. He mentions that he had heard on good authority that boys were still arriving on the Oman coast in 1947 from the Mukron coast of Baluchistan, and that girls are brought from Aleppo in Syria<sup>1/</sup> and sold in Arabia. These are unofficial sources of information, but there is also official information which confirms the existence of slavery in Saudi Arabia by implication.

"On 2nd October, 1936, King Ibn Saud made a decree entitled 'The Instructions Concerning Traffic in Slaves'..."

25. The text of the decree referred to above was reproduced in an Annex attached to a memorandum entitled "The Abandonment by His Majesty's Government in the United Kingdom of the Right to Manumit Slaves Presenting Themselves at His Majesty's Legation at Jedda," transmitted by the United Kingdom Government on 8 March 1937 to the Secretary-General of the League of Nations (League document C.188.M.173.1937.VI, Annex 6), as follows:

"Instructions Concerning Traffic in Slaves

"(Promulgated on October 2nd, 1936)

"PART I

"Art.1. Whereas the provisions of the Islamic Law require that the subjects of treaty States shall not be enslaved or sold, it is absolutely prohibited:

"(1) To import slaves into the Kingdom of Saudi Arabia from any country by sea;

"(2) To import slaves into the Kingdom of Saudi Arabia by land routes unless the importer produces a Government document confirming that the person imported was recognized as a slave in the country from which he is imported at the time of the publication of this regulation;

"(3) To enslave free persons in the Kingdom of Saudi Arabia;

"(4) To buy or obtain possession of any slave who has been imported or enslaved in any manner contravening the foregoing paragraphs after the promulgation of this regulation.

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<sup>1/</sup> See also paragraph 27, below.

"In the event of any contravention of the provisions of the foregoing paragraphs, the person committing such contravention shall be liable to the following penalty:

- "(1) The slave concerned shall be considered free and set at liberty;
- "(2) The Customs regulations against smugglers shall be enforced;
- "(3) Rigorous imprisonment shall be imposed for a period not exceeding one year.

## "PART II

"Art.2. The slave shall have the following rights as against his owner or possessor:

- "(1) The right to be fed, clothed and housed;
- "(2) The right to be well treated and to be employed with kindness and consideration and without harshness;
- "(3) The right to free medical attention;
- "(4) In general, all the rights enjoyed by the members of a man's household or dependents as laid down in the provisions of the Islamic law.

"Art.3. In the event of a slave complaining of bad treatment on the part of his owner or possessor, the competent authority shall summon both the complainant and the person against whom the complaint is lodged and, if it is satisfied that the complaint is well founded, it shall caution the owner or possessor in the first instance and shall grant him respite for a period not exceeding two months in order to examine again the condition of the complainant, and, if it is satisfied in the second instance that the grounds for complaint still exist, it shall compel the owner or possessor to divest himself of the ownership or possession of the complainant either by sale or otherwise. If the owner fails to bring the complainant before the competent authority within the period fixed by it, he shall be punished, in the first instance, by a fine not exceeding £1 and, if the contravention is repeated, a fine double that amount shall be imposed and he may be sentenced to imprisonment for a period not exceeding one week.

"Art.4. Any slave who can prove that he was born free and that he was enslaved in a manner contrary to Islamic law during the period which has elapsed since the establishment of the Government of His Majesty the King in the year 1344 shall have the right to petition for his release from slavery, and it is the duty of the competent authority to consent to examine the case and to give an equitable decision concerning it.

"Art.5. Subject to any rights which the owner or possessor may have reserved in a form recognized by Islamic law and recorded in writing at the time of the marriage, it shall not be lawful for the owner or possessor to separate two slaves who have contracted matrimony in accordance with Islamic law except under an order issued in accordance with that law.

"Art.6. The owner or possessor shall not separate children from their mother so long as they are minors.

"Art.7. The slave shall have the right to apply to his owner or possessor for Mukâtaba (i.e. an agreement enabling the slave to purchase his freedom), and it shall be the duty of the owner or possessor to accede to this demand and, in the event of any dispute arising between owner or possessor and slave as to the amount of the sum to be paid, that sum shall be assessed by the competent authorities and they shall appoint dates for its discharge. The existence of the Mukâtaba shall not be held to set aside the application of the provisions of Art.3 above.

"Art.8. Any slave who was born outside the Kingdom of Saudi Arabia shall have the right to choose the place where he shall reside when he has been freed in accordance with the provisions of this regulation or in accordance with any other form recognized by Islamic law.

"Art.9. All slaves must be enrolled by a special register to be kept by the competent authorities, and every slave shall be given a certificate of identity containing his description and, in the case of males, his photograph. Certificates of identity shall be in triplicate, one to be kept by the competent authorities, one by the owner or possessor and one by the slave. There shall be entered on the certificate of identity all the formalities relating to the slave, and the owners or possessors of the slave shall be required to complete the formalities of the registration within one year from the date of the promulgation of this regulation.

"Art.10. Any slave who has not been registered by his owner in the manner set forth in the preceding article shall have the right to present himself before the competent authority and to demand to be given a certificate of freedom.

"Art.11. When slaves are transferred from the possession of one person to that of another, they must be produced before one of the doctors of the Department of Public Health, in order to obtain a certificate that they are in good health.

### "PART III

"Art.12. It is not permitted to engage in the traffic of slaves as an agent or broker except in accordance with an official licence issued by the competent authority.

"Art.13. A special official, entitled Inspector of Slave Affairs, shall be appointed to deal with matters relating to slaves and he shall have, in case of necessity, a travelling assistant.

"Art.14. The competent local authorities shall present a six-monthly report on the working of this regulation, containing a summary of the formalities which have been concluded, and the six-monthly reports shall be forwarded, together with the observations of the Inspector of Slave Affairs, to the Minister of the Interior within two months from the expiry of the six-monthly period covered by the report.

"Art.15. The competent authorities referred to in this regulation are the Ministry of the Interior in the capital and the Amirates in the provinces, and, when cases are under consideration in accordance with the provisions of this regulation, the competent authority shall form a committee to examine and give judgment concerning the matter, this committee to be composed of a representative of the said authority, a representative of the Police Department and a representative of the Administrative Council.

"Art.16. This regulation shall have effect from the date of its promulgation."

26. In his ancillary memorandum (E/AC.33/R.14, pp.29 and 30) Mr. Greenidge states that:

"Slave trading, in the sense of regular commerce in slaves has... very nearly ceased... The Government of Saudi Arabia... contributed to the suppression of this trade by making regulations in 1936 prohibiting the importation into Saudi Arabia of slaves by sea or land. It may be added, however, that reports indicating an ineffective application of the Saudi Arabian laws have been forthcoming, to the effect that slave markets of that country are still fed by slaves smuggled across the frontiers. Some of these victims are reported to be accompanying the pilgrims to the Holy Places... The Ad Hoc Committee on Slavery has been informed from a reliable source that there was still a slave market as late as 1941 in Mecca, in which slaves were publicly exposed for sale. So far as is known, there is no other public slave market in Arabia. Other transfers of slaves take place privately. While it is gratifying to record so satisfactory a situation in regard to the decrease of slave-raiding and slave-trading, in the sense of a regular commerce in slaves, vigilance will have to be continued to ensure that even this remnant of this pernicious traffic does not increase and that it is ultimately abolished. So long as there is a demand for slaves in Arabia, the traffic will revive, if vigilance is relaxed. On 22 September 1943 the Minister for Foreign Affairs of the United Kingdom said in Parliament that this trade, which had been kept in check in part by efficient measures of naval control, had shown a tendency to increase during the disturbed period of World War II, when naval vigilance had to be relaxed, owing to preoccupation in other places."

SYRIA<sup>1/</sup>

27. A reference to the sale of slaves allegedly bought in Syria appears in paragraph 24 above. In a letter addressed to the Rapporteur by the Minister of Foreign Affairs of Syria, dated 18 December 1954, it is stated that "The Syrian Republic is a party both to the Slavery Convention signed in Geneva on 25 September 1926, and to the Protocol of 7 December 1953 amending that Convention, the provisions of which it was one of the first countries to accept. Thus it manifested immediately its attachment to the obligations set forth in the 1926 Convention, including those relating to the complete suppression of slavery in all its forms, obligations which are firmly supported and fully guaranteed in Articles 7, 8, 10 and 29 of the Syrian Constitution. Insofar as the information taken from the book entitled 'Arabian Journey', by Colonel Gerald de Gaury is concerned... they constitute, as the Rapporteur himself recognizes, unofficial sources and consequently they cannot be taken into consideration."

THAILAND<sup>2/</sup>

28. In his ancillary memorandum (E/AC.33/R.11, p.8) Mr. Lasker states that: "Remnants of slavery in primitive aboriginal tribes here, as in neighbouring countries, are likely to disappear with greater economic development of the highlands." In a note addressed to the Secretary-General of the United Nations dated 8 January 1955 with reference to the Rapporteur's letter of 30 November 1954, the Minister of Foreign Affairs of Thailand states that: "... Slavery has been abolished in Thailand by the Slavery Act R.S. 124 (1905), and there is no slavery practice whatsoever in the country and the same can be said with regard to serfdom. Therefore the statement extracted by the Rapporteur [quoted above] does not correspond to the fact."

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1/ For the reply of Syria to the Questionnaire see E/AC.33/10/Add.5.

2/ For the reply of Thailand to the Questionnaire see E/AC.33/10/Add.21.

UNITED KINGDOM  
(Aden Protectorate)

29. The Government of the United Kingdom states in one of its replies to the Questionnaire (E/AC.33/10/Add.50, p.3) that "in all British Colonial Territories, except the Aden Protectorate, the status of slavery has been abolished by Statute and slavery does not, in fact, exist". The reply continues:

"The complete abolition of slavery in the Aden Protectorate is a matter of some difficulty. The majority of such slaves as still exist enjoy a certain measure of security under the relatively humane provisions of the Moslem Law, and the harsh environment of the territory renders them unwilling to change their status.

"In the western half of the Western Aden Protectorate, there is comparatively little slavery and in the Quaiti and Kathiri States of the Hadhramout, the selling of slaves is forbidden and any slave has the right to obtain manumission on application. In the administered areas, this right is a reality closely guarded by the British Agency in Mukalla.

"The importation of slaves from Africa to Aden Protectorate appears to have completely stopped, partly as a result of engagements and treaties entered into by all the coastal Treaty Chiefs in the course of the past century but mainly because of the spread of effective administrative control by European governments of the coast of Africa. Of persons remaining in a state of slavery in the Protectorate, only a very small number can have been born outside Arabia. There is undoubtedly some clandestine traffic in women and children which originates in China and passes through Hong Kong on the way overseas. Drastic legislation and appropriate administrative action have long been introduced in Hong Kong to detect and suppress this traffic.

"Apart from the above, the slave trade as defined in Article 1 of the International Slavery Convention of 1926 does not exist in any of the British non-Metropolitan territories."

30. A statement on the subject of slavery in the Aden Protectorate was made to the Economic and Social Council by Mr. Corley Smith, Representative of the United Kingdom, on 10 September 1951, in reply to a statement which had been made earlier in the Social Committee of the Council by Mr. Birecki, Representative of Poland. Mr. Birecki had referred (E/AC.7/SR.206, p.11) to a description in



the Egyptian newspaper El Asam on 6 July 1951 of a public sale of slaves in Aden. Mr. Corley Smith stated (E/SR.544, p.597) that:

"He must first make clear the distinction between the colony of Aden, for the administration of which the United Kingdom was responsible, and the Aden Protectorate in which the sultans and local chiefs stood only in treaty relationships with the United Kingdom. Those treaties did not permit any interference by the United Kingdom Government in the internal affairs of the States and Principalities with which they had been concluded. However, there did exist supplementary treaties by which the local chiefs had agreed to accept the advice of the United Kingdom Government in most matters not relating to the Mohammedan religion. The value of such supplementary treaties had been proved by the fact that in two of the Principalities with which they had been concluded the traffic in persons had been abolished. As for the colony of Aden, administered, as he had indicated, by the United Kingdom Government, any slave who set foot in it became ipso facto free, since slavery in any shape or form did not exist in British possessions.

"Apart from the conclusion of supplementary treaties with the sultanates, and other démarches with the objective of persuading the local rulers to abolish slavery, the British Government had a three-fold programme for dealing with the problem in the Protectorate, which, it had to be remembered, covered an area twice as large as the United Kingdom but whose population was only some 800,000. That programme consisted of the abolition of the importation of slaves from Africa, of the prohibition of the sale of slaves, and of the abolition of slavery in territories directly under British control. Thanks largely to the supplementary treaties and to action by other governments in guarding the African coast, the traffic in slaves between Africa and Arabia had practically disappeared."

UNITED KINGDOM  
(The Persian Gulf States)

31. The Government of the United Kingdom states in one of its replies to the Questionnaire (E/AC.33/10/Add.98, pp. 1 and 2) that:

"It is the constant aim of Her Majesty's Government, who are responsible for the international relations of the Persian Gulf States, to assist the Rulers to bring about the complete abolition of slavery and involuntary labour. In the three most important of these States, Bahrain, Qatar and Kuwait, slavery is not recognized by law, and in the two former the possession of slaves is an offence. In the seven less developed Trucial States (which have a total population of less than 100,000), domestic slavery still exists, though any slave can obtain manumission on application to the British Agency. It

may be said that such slaves as remain are unwilling to change their status on account of the security which they enjoy under the provisions of Moslem law, and of the protection which they obtain against the harsh geographical environment of their territory.

"The importation of slaves into the Persian Gulf States was stopped many years ago by the treaties and engagements entered into by the Rulers with Her Majesty's Government, the patrols of the Royal Navy, and the spread of effective administrative control on the African coast. The slave trade has been totally prohibited in Bahrain, Qatar and Kuwait. In recent years there has been no local buying and selling of slaves in the Trucial State...

"The proclamations issued in Bahrain [1937], Kuwait [1949] and Qatar [1952] are thought to have been completely effective. Until the establishment of the Trucial Oman Levies [a small force, established in 1950 with the co-operation of the rulers of the Trucial States, the primary object of which was the suppression of the slave trade], forcible abductions of persons from the Trucial States for sale as slaves outside their territories occurred from time to time. Since the establishment of the Levies, no such cases have been reported."

VENUEZUELA<sup>1/</sup>

32. A reference to the alleged sale of Goajiro Indians in Venezuela appears in paragraph 19 above.

YEMEN<sup>2/</sup>

33. The Anti-Slavery Society, a non-governmental organization in Category B consultative status, states (E/2548, Section 59) that:

"Evidence on the existence of slavery in Yemen is conflicting. The Representative of Yemen at the General Assembly of the United Nations, when slavery was being debated by that body in October 1948, rose and said that there are no slaves in Yemen. In 1930 Le Matin, newspaper of France, published a report on slavery in Arabia and

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<sup>1/</sup> For the reply of Venezuela to the Questionnaire see E/AC.33/10/Add.36 and E/2548, Section 58.

<sup>2/</sup> For the reply of Yemen to the Questionnaire see E/2548/Add.4.

Abyssinia by Joseph Kessel and others, who had made an examination on the spot, and that report states, 'In Yemen we found no slaves', but adds that 'cruising along the Yemenite coast we learned from fishermen in the little creeks that groups of men, women and children were landed from time to time and at once despatched to the Hijaz', (now Saudi Arabia). Mr. Eldon Rutter, at the lecture in 1933, mentioned above, said that 'the Iman of Yemen had made it clear that he could take no steps towards the abolition of slavery as a recognized institution', thus implying its existence in Yemen. G.E. de Jong, in an article entitled 'Slavery in Arabia', in 'The Moslem World' for April, 1934, wrote, 'It is little known that in Arabia, in Mecca and in Yemen corps of slave men and women are maintained and bred like cattle in order that their children may swell the slave markets', and he cites 'The Holy Cities of Arabia', Vol. II, by Eldon Rutter, in support of his statement. In October, 1947, the Nations Associates of New York submitted a memorandum to the United Nations, in which it is stated (p. 45) that 'In Yemen slavery flourishes as it does in Saudi Arabia'."

## CHAPTER II

### MATERIALS RELATING TO SERFDOM

34. From the information supplied in accordance with Council resolutions 238 (IX), 276 (X), 388 (XIII), 475 (XV), and 525 A (XVII), the Rapporteur has extracted the following statements relating to serfdom (compulsory and hereditary attachment to land accompanied by obligations to render service to the landlord) and similar institutions or practices:

#### CHINA<sup>1/</sup>

35. In his ancillary memorandum (E/AC.33/R.11, pp. 27-29) Mr. Lasker states:

"Feudal, or proto-feudal land tenures in China no longer exist either in law or in practice; but in recent times of civil disturbance landlords sometimes assumed powers over their tenants so complete as to recall mediaeval conditions..."

"Another type of serfdom is to be found among China's aborigines. Serfdom was observed as a contemporary institution among the Lolo of Yunnan as recently as 1945. Hereditary serfs were attached to the land of certain chiefs, and the chiefs held themselves responsible for the subsistence and security of the dependent families..."

In a letter addressed to the Rapporteur dated 26 January 1955 with reference to the Rapporteur's letter of 30 November 1954, the Director of the Office of the Chinese Delegation to the United Nations transmitted the following comments and observations of the Chinese Government on the statement quoted above:

"Serfdom similar to 'mediaeval conditions' and 'hereditary serfs', if any, had long ceased to exist in China. Ever since the establishment of the National Government in Nanking in 1927, land reform programmes had been carried out steadily in different parts of the country. The Chinese Land Act was promulgated on 29 April 1946.

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<sup>1/</sup> For the reply of China to the Questionnaire, see E/AC.33/10/Add. 64 and 76; and E/2548, Section 11.

"After the occupation of the mainland by the communist regime 'land reform' has been carried out all over the country by forcible seizure and distribution. Thousands of landlords and well-to-do peasants were put to death through mob action instigated by communist political workers. While forced labour became prevailing on the mainland of China, it is untrue to say that mediaeval serfdom and hereditary serfs still exist in China.

"As to the Province of Taiwan, the Chinese Government has since 1949 carried out extensive programmes of rural land reform to achieve the triple purpose of reducing rentals on agricultural land, of assuring security of tenure to the peasants and of providing opportunity for the cultivators to acquire ownership of land.

"More detailed information on land reform in Taiwan will be found in Dr. C.L. Hsia's statement before the Second Committee of the Ninth Session of the General Assembly (A/C.2/SR.310), the replies by the Chinese Government to the Questionnaire (E/AC.33/10 Add. 64 and 76) and the Secretary-General's Report (E/2548, Section 11)."

FRANCE

(Overseas Territories)<sup>1/</sup>

36. The Government of France states in its reply to the Questionnaire (E/AC.33/10/Add.42, p.2) that:

"Serfdom ... has completely disappeared.

"In the north of the Cameroons, however, a custom derived from serfdom persists although it should be noted that the 'serfs' are completely at liberty to change their overlord or, more accurately, landlord. Moreover, during the last fifteen years, the 'heathen' tenants of the Moslem landlords in the north, making use of their favourable demographic position, have been taking possession of arable lands and refusing to pay the customary dues. The authorities encourage this full emancipation of the settled peasants, while taking the necessary measures to protect the pasture lands of the semi-nomadic Moslem landlords. This policy is described in the Report to the United Nations for 1949.

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<sup>1/</sup> "The territories for which the Ministry for Overseas France is responsible are: French West Africa, French Equatorial Africa, French Somaliland, Madagascar and Dependencies, French Settlements in India, New Caledonia, and Dependencies, French Settlements in Oceania, St. Pierre and Miquelon, and Trust Territories (Cameroons and Togoland)." (E/AC.33/10/Add.42, p.2).

"In French Equatorial Africa, among some backward tribes in the interior, traditional obligations (the furnishing of wood and game, etc.) are payable to the customary chiefs, one of whose functions is the distribution of the communally-owned arable land among their clients; in fact, the obligations are mainly tribute to the chief and a return for the services rendered by him to the community as a whole. Although these practices have their origin in land tenure, they should be considered as a form of taxation in kind."

GUATEMALA 1/

37. The ILO publication, "Indigenous Peoples," contains the following statement (p. 350):

"... It would appear that in some areas the prevailing system is that of the pegujal, in which the Indian tenant undertakes to work on the owner's estate during one week in the month or three months in the year, when the landlord may require, generally in exchange for a wage of from 5 to 50 centavos of the quetzal per day or task. The pegujal is described as 'a plot of land which the agricultural peon is allowed to cultivate, both to attach him to the estate and to enable him to supplement his wage ... [It is a] survival of feudalism ... a vestige of the ancient forms of serfdom'."

....

In a letter addressed to the Rapporteur dated 12 January 1955, with reference to the Rapporteur's letter of 30 November 1954, the Chargé d'Affaires of the Permanent Guatemalan Mission to the United Nations transmitted the following comments and observations of the Ministry of Foreign Affairs of Guatemala on the statement quoted above:

"The paragraph of the ILO publication Indigenous Peoples which the Rapporteur cites with reference to Guatemala states: 'It would appear that in some areas the prevailing system is that of the pegujal in which the Indian tenant undertakes to work on the owner's estate during one week in the month or three months in the year, when the landlord may require, generally in exchange for a wage of from five to fifty centavos of the quetzal per day or task.' The pegujal is described as 'a plot of land which the agricultural peon is allowed to cultivate, both to attach him to the estate and to enable him to supplement his wage ... survival of feudalism ... a vestige of the ancient forms of serfdom'.

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1/ For the reply of Guatemala to the questionnaire, see E/AC.33/10/Add.68.

"The word pegujal is absolutely unknown in the Republic of Guatemala and means nothing to the Indian population or to any other section of the population. However, because in other localities the term is used to describe the system under which the Indian tenant undertakes to work on the owner's estate during one week or other periods of time when the landlord may require, generally in exchange for a wage ranging from five to fifty centavos of the quetzal per day, it should be pointed out that if such a system existed in Guatemala in the remote past, it has not been practised for many years and has in fact been completely abolished.

"In reality there is a law (Labour Code) under which joint wage boards fix a minimum wage for workers periodically in accordance with the statute and the special conditions of each kind of employment, the special conditions prevailing in each region and the financial capacity of the employers in each sphere of activity whether intellectual, industrial, commercial, agricultural or stock raising. In fixing minimum wages consideration is also given to whether wages are paid at a time rate or per unit of work or in the form of a share in the profits, selling price or payments received by the employer, and the necessary steps are taken to ensure that employees who are employed at piece rates or by the job or task should not be prejudiced. At the present time the minimum wage is CNE QUETZAL TWENTY FIVE CENTAVOS, subject to any change in the conditions affecting employment and business.

"In order better to illustrate this point the provisions of the existing Labour Code are reproduced below: Article 103: 'Every employee shall be entitled to a minimum wage sufficient to cover his normal needs in the material, moral and cultural sphere and also to enable him to carry out his duties as head of the family. The said wage shall be fixed periodically as provided in this chapter with due regard for the conditions of each kind of employment, the special conditions prevailing in each region and the financial capacity of the employers in each sphere of activity, whether intellectual, industrial, commercial, agricultural or stock raising. Further, the fixing of the minimum wage shall also take into account whether wages are paid at a time rate or by a unit of work or by a share in the profit, sales or payments received by the employer, and the necessary steps should be taken to ensure that employees who are employed at piece rates or by the job or task should not be prejudiced.' Article 104: 'The rules laid down in this chapter for the fixing of minimum wages shall apply to all employees, with the exception of persons employed by the States or its agencies whose remuneration is fixed in the budget. Nevertheless, the State and its

agencies shall make the necessary adjustments every year in their respective estimates in order to ensure that no employee in their service is paid a wage less than the appropriate minimum wage'. Article 105: 'A joint minimum wage board shall be set up in each department or in each economic area to be specified by the Executive by means of an Order issued through the Ministry of Labour and Social Welfare; the board shall be composed of two employers and the same number of employees who are members of industrial organisations and a labour inspector who shall act as chairman of the board. Further, the Executive, by means of an Order issued through the above-mentioned Ministry, shall have power to set up joint minimum wage boards for every sphere of activity, whether intellectual, industrial or commercial, or in stock raising or agriculture, with jurisdiction over the whole of the country or a part thereof, and likewise for particular undertakings which furnish evidence that they have activities in two or more departments or economic districts and have not less than 1,000 employees; in this case the jurisdiction of the board shall be limited to the undertaking concerned. The Executive shall have power likewise to increase the number of employers and employees on one or more joint minimum wage boards, provided that this is necessary in view of the scope of the duties of the board or boards concerned'.

"With regard to the other meaning of the word pegujal which is defined as 'a plot of land which the agricultural peon is allowed to cultivate, both to attach him to the estate and to enable him to supplement his wage ... survival of feudalism, ... vestige of the ancient forms of serfdom,' it should be pointed out that such practices are not at present current in Guatemala and when in some cases agricultural workers and peasants cultivate land rented from its owners, they do so under free contracts and at low rents which cannot be considered detrimental to the development of their limited economy. In this connection mention should be made of the existing agricultural legislation: Decree No. 31 of the Council of Government, paragraph IV of the basic principles of which reads '... any form of unpaid work on the land is most prejudicial to the dignity of the Guatemalan as a free man, and any undertaking to perform tasks on the land in return for any benefits whatsoever shall on no account be binding on the worker'."

#### INDIA

38. The Government of India states in its reply to the Questionnaire:

"Bihar (E/AC.33/10/Add.70): 'Serfdom exists in various forms. In some parts of the State where the property is that of private landlords, the service holdings are hereditary and the occupants are likely to ejectment only on cessation of the required



services. In Khas Mahal land, the holding is not hereditary but the claim of the deceased holder's son to the holding receives preferential treatment. In some advanced areas, holders have stopped rendering services to the landlords ...."

"Admar (E/2548/Add.6): 'A form of serfdom known as "Dawri" or "Dasi" system is prevalent among Jagirdars and Istimarardars. Almost in all marriages amongst Istimrardars and Jagirdars, girls or women of the Daroga community commonly known as "Dasis" accompany the bride and reside with her for her personal service. The girls and women are generally those who formerly resided with the family of the Jagirdar for generations. The Dasis are in many cases married there with some members of their caste residing with the families of bridegrooms. The number of such women (Dasis) vary with the status of the Jagirdars. These Dasis form part of the family of the bridegroom. Such Dasis work at the house of the Jagirdar who provide them with food, clothes and shelter. In present times, with enlightenment amongst the Daroga community, this Dasis system is gradually decaying and the Dasis or Darogas have freed themselves from the bondage of the Jagirdars to a large extent. They have begun to take to various professions and services and are leading independent lives. The economic conditions and the changed political atmosphere have also hit hard the Jagirdars who can now ill-afford to have the luxury of keeping Dasis. In short this system is now prevailing to a lesser extent with the mutual consent and understanding between the Jagirdars, etc. and the Dasis and there is hardly any compulsion left!."

39. In his ancillary memorandum (E/AC.33/R.11, pp. 35-37) Mr. Lasker states:

"The term for a group of low castes, varna, originally meant 'colour'. It is likely to have had a racial significance; for, most of the succeeding conquering peoples were lighter in skin colour than the indigenous people whom they subjected. It has been claimed for the Hindu caste system that it had its origin in a division of social functions without regard to relative status. But the groups left out of the caste system - at first because they were actually outside organized society - were assigned the lowest status and were compelled to conform to an elaborate system of discriminations. They were serfs when they could be forced to live in close attachment to a community and to serve it in such menial capacities as scavenging, slaughtering of animals, and the like. Originally composed of unassimilated aboriginals, these groups grew through the absorption of homeless and vagrant people and of those who had forfeited their civic rights by offences against customary law.

"In addition to these unfortunate people, there also were serf tribes, aboriginal tribes which, ousted from their ancestral lands or forest abodes, had entered into some sort of symbiotic relationship with an agricultural community which permitted them to occupy certain lands in exchange for a share in their products and for specified services. Elaborate arrangements have grown up in cis-Himalayan districts, for example, under which various aboriginal groups specialize in certain crafts or services to the castes that make up the agricultural population of adjoining valleys. Indian

sociologists regard the dependency created by such settlement as serfdom. (D.N. Majumdar, The Fortunes of Primitive Tribes, Lucknow, 1944, p. 138). Similar conditions of servitude exist in other parts of India, too - as for example among the Pulayas in Travancore, whose 'chains of present-day economic and social servitude are no less binding than were those which held the ancestors of these people in human bondage'. (R. Velayudhan, 'A Study of Social Conditions among the Pulayas ....', Indian Quarterly, I.3, December 1940, p. 393).

"In the United Provinces, a razil is a tenant who pays less than the current rent on binding himself to be available to his landlord for occasional labour which he does either without pay or for a token wage. A similar system exists among Chamar tenants in parts of the Central Provinces. The Khundit Mundit in a northern sub-division of Uttar Pradesh (until recently administered under the Excluded Areas Act of 1935) are described as domestic serfs, and the Mat as field serfs, neither receiving more for their labour than the bare requirements of subsistence. Communication from Mrs. Rameshwari Nehru). In Madras, K.G. Sivaswamy has observed the varam system of land tenure, essentially a share-cropping arrangement governed by customary law, 'the next nearest step to traditional serf labour' which 'partakes of many features of a servile tenure'. (The Madras Ryotwari Tenant, Madras, 1948, p. 62). The owners' preference for varam tenures increased during the war when prices were high, so that it was more profitable for them to receive a share of the crop than a fixed rent.

"A case from Travancore told by the Rev. Leslie W. Brown in a communication to the Committee, in which squatters retain the right to occupy a piece of land only by rendering extra services to the owner as well as paying the customary rent in kind, is illustrative of a widely prevalent situation.

"In the Punjab, a share-cropping system called batai has often been denounced as based on servile relations between tenant and landlord and as making for poor farming. Here the tenant has no security and cannot hope to benefit from any improvement he makes on the land. This would seem to be the opposite of 'attachment to the land', one of the conditions of serfdom as here defined. But because of the inefficiency, thriftlessness, and discouragement which it engenders it is a predisposing cause of permanent dependency, that is, serfdom. (H. Calvert, Wealth and Welfare in the Punjab, Lahore, 1936, pp. 198-199).

"The conditions named and others resembling them are to be found over a large part of India and have received a great deal of study in the last twenty years. The Punjab, United Provinces, Central Provinces and Bombay Provincial Governments, among others, have of late been actively engaged in legal and administrative changes intended to bring such conditions to an end. Laws have been passed to remove artificial restraints on the mobility of tenants and also to prevent their eviction for other causes than non-payment of rent. In Bombay, the payment of rent with labour services is prohibited. It is not possible within the frame of the present brief report to enumerate, much less describe, the large body of recent legislation by

which Indian Governments have attacked serfdom, quasi-serfdom, and related servile systems of land tenure. Some of it is in continuance and further development of measures initiated under British rule; but increasingly such legislation results from studies made in recent years under Indian official and unofficial auspices. Under the Constitution adopted on 26 November 1949, all legal disabilities on grounds of religion, caste, or place of birth have been abolished...."

#### INDONESIA<sup>1/</sup>

In his ancillary memorandum (E/AC.33/R.11, p. 38) Mr. Lasker states that:

"There still are, or quite recently were, in Indonesia, vestiges of indigenous forms of servitude resembling serfdom. In Sumatra it was not until 1946 that some of the Sultans were forced, after an armed uprising, to abandon their feudal rights over the peasants. In Celebes and Borneo bilateral kinship communities, continuing in milder forms the serf-tribe attachments of former times, were still found to exist in the thirties. (B. ter Haar, Adat Law in Indonesia, Groningen, 1939, New York, 1948, p. 67). But conditions of abject submission of commoners to the nobility, such as were still observed a generation ago, have disappeared."

#### NEPAL<sup>2/</sup>

In his ancillary memorandum (E/AC.33/R.11, p. 30) Mr. Lasker states that:

".... landowners formerly relied to some extent on slave labour, but many of them also had on their estates hereditary serfs whose ranks probably have been augmented by ex-slaves. The hereditary farm servants are in part descendants of formerly free peasants of the lowest castes whose voluntary co-operative labour under a system of mutual aid called parma has been absorbed by the landlords as a means of supplying them with compulsory and unpaid labour."

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For the reply of Indonesia to the Questionnaire, see E/AC.33/10/Add. 57 and 89.

For the reply of Nepal to the Questionnaire, see E/AC.33/10/Add. 9 and 80.

THAILAND<sup>1/</sup>

42. In his ancillary memorandum (E/AC.33/R.11, p. 43) Mr. Lasker states that:

"Under Thailand's Constitution of 23 March 1949, there is no room for serfdom, and the scope and severity of compulsory services to the State itself have been greatly reduced. Vestiges of serfdom, if such they can be called, are to be found rather in labour conditions which often hide under modern outward forms the feudal spirit of former times and give the master a power over his servant that corresponds neither to the latter's legal status as a free citizen nor to the demands and standards of modern labour management. As in other countries of the region, the social attitudes in governmental circles toward class and class relations tend to be more advanced than those in a large part of the land-owning class which still lives in an atmosphere of traditionalism and had little contact with the outside world."

In a note addressed to the Secretary-General of the United Nations, dated 8 January 1955, with reference to the Rapporteur's letter of 20 November 1954, the Minister of Foreign Affairs of Thailand States:

"..... Slavery has been abolished in Thailand by the Slavery Act R.S. 121 (1905), and there is no slavery practice whatsoever in the country; and the same can be said with regard to serfdom. Therefore the statement extracted by the Rapporteur [quoted above] does not correspond to the fact."

<sup>1/</sup> For the reply of Thailand to the Questionnaire, see E/AC.33/10/Add.21.

### CHAPTER III

#### MATERIALS RELATING TO TRADITIONAL FORMS OF UNPAID OR UNDERPAID PERSONAL SERVICES EXACTED BY LANDOWNERS AND OTHER EMPLOYERS OF LABOUR, OR THEIR AGENTS

43. From the information supplied in accordance with Council resolutions 238 (IX), 276 (X), 388 (XIII), 475 (XV) and 525 A (XVII), the Rapporteur has extracted the following statements relating to traditional forms of personal services exacted by landowners and other employers of labour, or their agents, for which the worker receives no pay or only "token" remuneration:

#### BOLIVIA<sup>1/</sup>

44. The ILO publication, "Indigenous Peoples", contains the following statement (pp. 343-345):

"In the Bolivian high plateau the most frequent form of tenancy is that of colonato. The essential feature of this system is that the Indian must furnish certain services to the owner of the estate in exchange for the right to live there and to cultivate his plot. The character and extent of his rights and obligations are governed by custom, which varies from place to place and in many cases is not easily distinguishable from the owner's personal whim. The general characteristics of this system may be summarised as follows:

"The tenant is allotted a plot of land to build his house on, and another plot alongside the fields of the estate for cultivation... The time he has to spend working on the estate, and the restrictions on marketing his produce freely, considerably limit his earning power.

"The conditions under which the Indian tenant has to work for the estate... vary from one region to another. Where labour is scarce they are more or less favourable, but where there is an abundant supply of labour they easily border on abuse. In the thinly populated region of the Yunga valleys the tenant labourer usually works for the estate on the first three days of the week and for himself on the rest. In other areas the practice is to work for the owner every other week. In still others the tenant may be required to work on the estate without break until all the work has been done, when he will have only the least favourable period of the season to work his own plot. In the last case the Indian is in effect no longer a

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<sup>1/</sup> For the reply of Bolivia to the Questionnaire see E/AC.33/10/Add. 22 and E/AC.33/10/Add.22/Corr.1

tenant labourer but rather a labourer with allotment 'privileges' and such a system may come very near fulfilling any definition of compulsory labour, particularly if the 'tenant', in addition to tending stock and grazing crops, is required to render domestic and personal services in the country or city house of the landowner... The employer... has no legal obligations or restrictions of any sort in connection with minimum wage rates, payment for specific personal services, observance of a specified working day, compulsory rest, provision of food, housing conditions, maternity protection, women's and children's work, compensation for employment injuries, medical care, etc. In fact it may be summed up as a characteristic feudal system...

"In the preamble to Decree No. 318 of 15 May 1945, the Government of Bolivia stated that, despite the prohibition contained in Article 50 of the Constitution, tenant labourers were subject to 'exactions regarding the payment... of money and supply of products without fair remuneration in accordance with vicious customs which have been imposed ever since the colonial period'; the decree therefore laid down that the tenant shall be absolute master of his harvest, which he may sell on the open market without other restrictions than those established by the laws in force; and that the owner may not require him to pay tithes, twentieth parts, etc. (in the form of lambs, wool, poultry or other produce)...

"In some districts the practice of providing a plot of land has disappeared completely and the Indian has become an attached peon who, in exchange for board and lodging, a certain quantity of produce, and a sum of money paid at the end of his contract of service, undertakes to work for the estate for an entire year. This type of labourer is called huataruna, which in the Quechua language means 'yearly man' (huata = year, and runa = man).

"While the contract runs, he is entirely at the master's disposal... His pay nearly always goes to meet debt contracted for extravagant religious festivals or for dire necessities resulting from his lack of land. He is required to work continuously and is outside all social protection; he has no maximum day, no minimum wage, no medical care, no holiday... A multitude of jobs fill up his days and nights. He is a means of transport, a building worker, a farm labourer, a servant, a cook... a messenger for long and tiring errands...; if the circumstances require he may even do a nursemaid's duty. When there are no chores to keep him active and diligent in the master's house, he is sent to a neighbour, hired out for days, weeks or even months...

"Among Indians agricultural wage employment is an exception and it occurs only where a shortage of manpower (e.g., the Yunga valleys) obliges estate owners to use cash as an inducement... Nevertheless, even in this case, which arises in some valleys in the departments of Cochabamba, La Paz, Potosi and Sucre, it is the usual practice to place a plot of land at the disposal of the Indian farm worker, and the wage is at the most a supplementary form of remuneration only."

45. In the same ILO publication it is stated (p. 377) that:

"In some areas, such as the mining district of Oruro, Indians escape pongueaje service by paying the landowner a fixed sum of money whenever their turn of duty comes round. It was not infrequent, a score of years ago, when an estate was sold, for the pongo working there to be handed over to the purchaser as a part of the property. No less rare was it for one landowner to hire his pongo to another, together with a certain quantity of taquia. [Taquia is the dung of sheep and llamas, collected and dried in the sun, and then used as fuel.] In 1932 legislation was enacted prohibiting this practice, but it is claimed that in some districts 'estate owners still hire out their pongos, with or without taquia, as the client wishes'... It is further stated that in some localities pongos are still included in commercial deals between estate owners. 'The pongo is an integral part of the land and shares its fate; he is passed like money from owner to owner and changes masters casually...'"

46. In the same ILO publication it is further stated (pp. 388-389) that:

"The preamble to a Bolivian decree of 15 May 1945 proclaimed the duty safeguarding human dignity and the right to fair remuneration for work done; but the body of the decree merely provided that pongueaje and mitanaje were abolished. Nothing was said about the labour system itself, of which the personal services the decree prohibits were no more than an accessory feature. At the most a limit of four was placed on the number of days per week during which the Indian tenant labourer might be required to work for the owner; and, as no reference whatever was made to the form of remuneration and other conditions under which such work was to be carried on, the customary scheme appears to have been implicitly recognized."

47. An article entitled "Land Reform in Bolivia", which appeared in the November 1953 issue of the ILO publication "Industry and Labour", contains the following statement (pp. 341-342):

"On 2 August 1953 a legislative decree concerning agrarian reform was promulgated in Bolivia. Both the preamble and the body of this decree... refer explicitly to the indigenous peoples of the country and provide for measures calculated to bring about a substantial improvement in their situation... The fundamental aims of the reform as stated in the decree are as follows:... (c) to liberate rural workers from their condition of servitude by prohibiting unpaid personal services and similar operations..."

COLOMBIA<sup>1/</sup>

48. The ILO publication, "Indigenous Peoples", contains the following statement (pp. 345-346):

"In the Indian areas of the western Andean massif, particularly in the departments of Nariño and Cauca, the institution of terraje is a form of tenancy which resembles that of the Bolivian colonato. The terrazguero is an Indian without land of his own to whom the big estate owner allots in usufruct a small plot known as pegujal, on condition that he serves as labourer on the estate, thus securing a sure and cheap source of labour for the operations of agriculture and stock-raising... The terraje itself is described as the number of days on which the Indian occupant has to work on the estate, and varies according to the region or locality. It may be anything from one to five days in the week; in the latter case, the tenant labourer is said to be often obliged to take advantage of the moonlight nights to cultivate his own holding... In some districts he has to work for a specified number of days a month in payment for the use of his land allotment and several days more as a wage-labourer, for which he received, in 1944, a daily rate of ten centavos... In other districts, the wage is paid in boiled maize at a price determined by the employer...

"According to another source, where the Indian comunidad co-exists with the big estate (as is the case, for instance, in the region of the Guambia and Páez Indians) and there is easy access to markets for agricultural products, a combination of payment in cash and payment in kind predominates, whereas in the less accessible parts of the mountains (Tierradentro region) payment in kind is commoner, and either wages are expressed in money but paid in the form of food and clothes, or some specified product [such as the coca leaf] takes the place of legal currency and serves as unit of account... Natural wages, i.e. wages in kind, are a feature of the terraje system which enables the big landowner to hold fast the indigenous worker and prevent him from moving away physically and from moving forward in the economic sense..."

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<sup>1/</sup> For the reply of Colombia to the Questionnaire see E/AC.33/10/Add.37, and E/2548, Section 12. In a telegram addressed to the Rapporteur, dated 4 January 1955, the Colombian Ministry of Foreign Affairs indicates that the observations of the Government of Colombia on the statement quoted above will be forthcoming.



49. In the same ILO publication it is stated (p. 378) that:

"In some parts of the western massif [of Colombia], the indigenous terrazguero is required to serve as semanero, or 'weekly man', in the owner's house or in his farm. In strict rotation each Indian has to work for a whole week at tending cattle, fetching wood, watering, fencing etc., and for this duty he receives no payment of any sort, not even his food."

#### EL SALVADOR

50. The Government of El Salvador states in its reply to the Questionnaire (E/AC.33/10/Add.66) that:

"Until quite recently there used to exist certain modified forms of involuntary, unpaid service exacted by landowners or lords of the manor and such forms may still exist today. They included, for example, the obligation to work on the land for certain specified days without any remuneration, if the worker was unable to pay in cash or kind for the rent of the land allotted to him by the landowner or lord of the manor and where he is allowed to live on the property. In such cases, however, the worker could choose between two alternative obligations and it is not a question of forced labour. Such services should rather be considered as a means of payment by the worker for the facilities granted by the lord of the manor (land or lodging)..."

#### ECUADOR<sup>1/</sup>

51. The ILO publication, "Indigenous Peoples," contains the following statement (pp. 346-349):<sup>2/</sup>

"In the Ecuadorean Sierra the huasipungo system is a form of attached labour tenancy similar to that of colonato in Bolivia and of terraje in Colombia. The huasipungo is a small piece of land which estate owner makes available to the Indian worker and on which the latter is entitled to build a hut, cultivate a garden and keep a few head of cattle. In return the Indian must work on the estate for a small wage for a certain number of days a week<sup>3/</sup>. Frequently the labourer's wife is required to milk the cows of the

<sup>1/</sup> For the reply of Ecuador to the Questionnaire see E/AC.33/10/Add.30, and E/2548, Section 18.

<sup>2/</sup> The comments and observations of the Government of Ecuador on the materials appearing in paragraphs 51 and 52 are reproduced in paragraphs 53 and 54 below.

<sup>3/</sup> "A huasipunguero is a person who works on an estate for remuneration which he receives partly in cash, as wages, and partly in the right to use a piece of land available to him by the employer." (Section 244 of the Labour Code.)

estate or to perform other agricultural tasks, such as weeding or husking maize, preparing wood for fencing, etc., for which she may or may not receive a quantity of the crop or a small remuneration in cash.

"The Labour Code provides that the number of days a huasipunguero must work on the estate may not exceed four in the week and that the wage may not be less than half the minimum rate laid down for an agricultural labourer in the locality. Despite these and other protective measures... the system is reported to lend itself to a number of abuses.

"In a study of the National Welfare Institute, published in 1947, the following information is given regarding the huasipungo system in one of the principal provinces of the plateau. On many of the estates the tenant labourers work for the owner from Monday until Friday, and in some districts from Monday until Saturday. The work takes the form of a number of 'tasks', including ploughing, weeding and fencing. Any one of these tasks usually takes up at least eight hours' work a day. In addition, each labourer has, for periods ranging from one to three months, to take his turn as a stockman or domestic servant in the employer's house... During his term as farm servant the Indian works every day of the week, including Sunday, from six in the morning until six at night and his pay for this type of work is the same as what he receives as an ordinary tenant labourer. On some estates this pay is nominal only; on others it amounts to 10 sucres a month; as a rule, it ranges from 45 centavos to 3 sucres a working day (usually of 12 hours)...

"Often the huasipunguero has to wait for months before he receives his pay. This obliges him to request the favour of a suplido, or advance in cash, and, at the end of the year, the employer checks the advances received and the number of days worked, with the result that usually the tenant labourer is in debt to him. This system of piling up debts serves to retain the Indians on the estates for an indefinite period. When the Indian dies, the huasipungo passes to the wife, or to an elder son if there is one. The man's debts go with it and before he may leave his huasipungo he has to pay off his debts...

"It appears from further sources that similar conditions also prevail in other parts of the mountain region. Thus, a study published in 1944 speaks of 'private Indians' (indios propios) who are subject to the huasipungo system and work for the owner for five days a week as labourers and domestic servants for a daily wage of 20 centavos... Another study reveals that in the province of Imbabura, in exchange for the use of a piece of land and a daily wage varying between 30 and 70 centavos, often paid in grain, the

estate Indian has to work during most of his time on the owner's estate at various farm jobs - ditching, herding, tending the pasture - while his wife milks the cows and his children act as domestic servants. Another type of tenant labourer is the cuadrero who, in exchange for the use of a plot of land and a monthly wage of from 5 to 12 sucres, cultivates and guards the estate owner's urban land (cuadra) and, together with the members of his family, acts as domestic servant in the latter's house. When the employer so allows, such an Indian is free to work on his own account outside the cuadra... The huasipunguero is truly disinherited... As a rule the estate owner picks the worst land on his property to parcel it out among his tenants... For his plot and a hut the Indian worker and his family become the serfs of the hacienda...

"In some parts of the mountain region systems of strict tenancy or of share-farming (partidario or aparcero) prevail instead of that of the huasipungo. In the former case the estate owner provides the Indian with a specified area of land for rent to be paid in cash. However, this arrangement is often theoretical and in fact the rent is paid in work. For instance in north-eastern Pichincha the tenant often has to pay his rent in the form of four or five days' work a week on the owner's estate. Under the share-farming system (which is more frequently found in certain areas of the provinces of Cotopaxi, Tungurahua, Carchi, Azuay and Loja) the Indian provides his labour and animal manure, whereas the owner provides land and seed, the crop being divided equally between them. In many cases, however, the Indian has to provide the seed also or, failing this, he receives only 45 per cent of the crop... Furthermore, as it appears from the following statement, the actual working conditions of the aparcero or partidario often resemble those of the huasipunguero.

"As a rule, the share-cropping contract is only verbal, a circumstance which gives rise to abuse. The Indian receives a plot of land, while the seed is provided either by the owner or by the share-farmer or by both in equal parts. When harvest time arrives, the Indian has to pay the 'companions' who have helped him gather the crop a 'ration', i.e., a small part of the same. Then come the tenths (diezmos) for the local ecclesiastical authority and the tithes (primicias) for the estate owner himself. In addition he has to pay so-called damages caused to the neighbouring estates. In fact, he finally receives what remains of his 50 per cent after these deductions. Furthermore, it is a generalised custom that during the period of his contract the partidario must carry out certain land improvements and render personal services for a specified number of days for the benefit of the estate owner...

"Mention should finally be made of a peculiar form of Indian agricultural labour which is typical of certain districts of the mountain region, particularly in the provinces of Pichincha and Imbabura - that of the yanapero. Article 246 of the Labour Code defines the yanapero as a labourer who 'undertakes to work a specified number of days in a week or month for the estate in return for certain benefits he receives from the owner'. These benefits may be in the form of grazing rights in an upland corner of the estate or may consist of the right to use the estate water and wood for domestic purposes. As a rule the yanapero is a comunidad Indian whose plot of land is too small to support him and his family, or a partidario in whose share-cropping contract these benefits are not included, or even a village Indian owning a tiny plot of unproductive land. According to an Ecuadorean authority, the institution of the yanapa, like that of the huasipungo is a 'survival of the destructive system of personal services which came into being during the Colonial period'..."

52. In the same ILO publication it is stated that (pp. 385-386):

"In various parts of the Andean plateau, both the local authorities and estate owners try to make Indians perform some of the personal services... by exploiting their belief in the virtue of... minga..., the traditional Indian system of voluntary aid and co-operation in work..."

"... in Ecuador... the estates take advantage of the custom of minga and, although the services rendered by the Indians in accordance with this custom appear to be voluntary, there are cases where they become an obligatory duty. The owner who needs the collective services of the people sends his steward with bottles of liquor and small sums of money to the Indian dwellings. The Indians are offered a drink and their acceptance is a sign that they have committed themselves to come to the minga without fail..."

53. In a letter addressed to the Secretary-General of the United Nations, dated 5 January 1955, the Acting Chargé d'Affaires of the Delegation of Ecuador to the United Nations transmitted the following information supplied by the Government of Ecuador:

"... 5. With regard to the practices resembling slavery to which the report of the Commission of Experts (E/1988) refers, I am happy to state that none of them is permitted in Ecuador. Debt bondage, which continued to exist under the name of concertaje as an inheritance from a colonial past, was abolished by law in Ecuador in 1918 and the Labour Code enacted in 1938 gives the workers full protection against abuses of this kind. Bride-price referred to by the Committee of Experts as a practice resembling slavery does not exist and has never existed in Ecuador. Under the Civil Marriage

and Divorce Act, marriage is a free and voluntary civil contract, which may be dissolved according to the procedure provided for in that Act. The rights of women are fully protected both with regard to separate and community property by the Economic Emancipation of Married Women Act. With regard to the exploitation of the work of children by persons to whom they are transferred, the third practice referred to by the Committee of Experts, all matters connected with the protection of child labour are regulated in Ecuador by the Code of Minors and come within the jurisdiction of special courts.

"... 6. There is no form of forced labour in Ecuador nor can compulsory military service be regarded as falling within this category. Work is free and is guaranteed by the Constitution and the Labour Code. Article 170 of the Constitution provides that work shall be compulsory as a civic duty, but that there shall also be full freedom of choice. Article 185 of the Constitution lays down the State's obligation to see that justice is done in relations between employers and workers, that the dignity of the worker is respected, that he is ensured a decent existence and given fair wages to meet his personal and family requirements. Paragraph (p) of that article states that agricultural labour, particularly that performed by natives, shall be the subject of special regulations in regard to working days. Artisan work, domestic service and work performed at home are covered by this provision. Paragraph (q) of the article provides that deprivation of the huasipungo, the piece of land allotted by the estate owners to native workers, shall be considered as improper dismissal. Paragraph (r) lays down that there shall be equal pay for equal work without distinction of race, nationality or religion. The article provides that it shall be the duty of the public authorities to promote, in the most suitable manner the moral, intellectual, economic and social advancement of natives and dwellers in the coastal jungles (montuvios), to encourage their incorporation into national life and their acquisition of property. Article 187 guarantees freedom of employment relations and of labour.

"7. As may be seen from the foregoing, Ecuador has a constitution of a new type. Since the promulgation of the Constitution of 1945 and its successor of 1946, which is the one in force, the principles of labour legislation have been incorporated in the Constitution. But Ecuador also has a Labour Code, which is one of the most advanced that could be wished and has been in force since 1938. Hence it may be seen that Ecuadorian legislation not only guarantees complete freedom of labour but also includes very progressive and equitable provisions relating to protection against dismissal, accidents, disablement, etc.

"8. With respect to servitude, I am happy to be able to state that it is prohibited in Ecuador under existing law. Servitude is construed as the rendering of compulsory services arising out of a relationship with the landlord. It is a survival of the feudal concept of serfdom. This is how the term is interpreted in the explanation given by the Committee of Experts and in the definition given in paragraph (b) of the Supplementary Draft Convention of the United Kingdom (E/2540/Add.4). However, as certain of the allegations made reveal some misunderstanding of a number of traditional Ecuadorian institutions which are an inheritance from our colonial period, it seems desirable to deal with them in some detail.

"9. 'Huasicamia' has been represented by the World Federation of Trade Unions as a form of forced labour. This allegation is entirely unfounded. Historically, it was a form of feudal service based on the grant of the huasipungo on the basis of a relationship similar to that of a feudal lord with a serf. Instead of suppressing a centuries-old social custom, Ecuadorian legislation has followed the prudent course of regulating this institution with a view to converting it into a form of contractual labour. Article 252 of the Labour Code provides that 'if an agricultural worker is employed on domestic work as a farm servant or any other similar capacity, he, together with his wife and children, if they accompany him, shall be entitled to travelling expenses, board and lodging; the agricultural worker himself shall be paid pecuniary remuneration for every day on which he is employed on domestic work. Members of the agricultural worker's family over the age of 12 years who are employed on domestic work shall be entitled to receive their wages separately'. It can be seen from this article that: (a) the agricultural worker is not compelled to work; (b) that pecuniary remuneration must be paid to him and to his wife and children, if they accompany him; and (c) that he must receive board and lodging in addition to his wages. This provision cannot possibly be regarded as forced service or involuntary servitude.

"10. The I.L.O. report entitled 'Indigenous Peoples' contains references to huasipungo and Yarapa. Article 244 of the Labour Code defines a huasipunguero as follows: 'Cottar (huasipunguero) shall mean a person who is employed on a farm for remuneration payable partly in money in the form of a daily wage and partly by the use of a holding granted to him by the employer'. Article 250 of the Code states: 'The area of the holding (huasipungo) shall be in proportion to the area of the estate, the nature of the land, the kind of crops, etc. The conditions under which the holding is granted shall be taken into account when fixing the pecuniary remuneration payable to the cottar; nevertheless such remuneration shall not in any case be less than half the minimum wage fixed for day labourers in the same locality'. Article 253 binds the employer to allow the agricultural worker to cut wood free of charge for his domestic

use and to take such quantity of water as may be necessary for the same purpose, to hunt and fish, except in preserves, and to allow the worker to keep not more than three head of cattle and twenty head of lesser livestock on the natural pastures, and to provide him with housing accommodation. All these legal provisions clearly demonstrate that, apart from abuses committed by private individuals in contravention of the law, the traditional system of huasipungo has been regulated by the State and it cannot be regarded as similar either to forced labour or to servitude, since it is based on wages, free bargaining and utilization of the land for a specific purpose.

"11. The system of service known as yanapa is based on the use of land. The Labour Code provides that such work shall be 'according to agreement', thereby removing the element of compulsion, and in section 259, it specifies that all such agreements to work must provide the worker with the following advantages: grazing of his cattle, utilization of water for his crops, and use of wood. This system, necessitated by local conditions that are disappearing, admittedly has its flaws, but it certainly bears no resemblance to a practice such as servitude, much less slavery.

"12. I must also draw attention to a significant fact, namely that the Indian clings to the soil. Experience has shown that to an Indian worker a plot of ground means more than cash wages. That is why it was necessary to enact legislation requiring the provision of land for the huasipunguero and of agricultural benefits for the yanapero.

"13. In view of the fact that certain forms of agricultural labour have apparently been interpreted as forms of slavery and servitude, my Government desires to emphasize that agricultural work is protected by the Constitution of the Republic and the Labour Code, which categorically prohibit slavery and similar practices, as is evident from the terms of articles 161, 169 (1), 170, 174 (c), 172 (2), 185 (a), (b), (c) and (p), 185 (2), 186 and 187 (3) and (10) of the Constitution of the Republic, and sections 1, 2, 3, 4, 5 and 7 of the Labour Code.

"14. The principles of freedom of work, inviolability of contract, payment of wages, inalienability of rights, etc., are fully applicable to these forms of agricultural work and represent standards taking precedence over all other considerations.

"15. In conclusion, may I say that the State of Ecuador has conducted, particularly since 1936, a constant campaign to change social conditions that might result in inferiority of status, especially for the indigenous inhabitants. The problem of fully assimilating the Indian masses is much more serious and difficult than some well-meaning, sentimental critics would have it. During the three centuries of colonial rule the Indians remained in their primitive state, a state of affairs which geographical obstacles

have helped to prolong. This combination of circumstances has had consequences that are difficult to overcome. But highly important legislative and practical measures have been taken in this field. There is first, the Labour Code of 1938, the provisions of which I have already mentioned in a number of paragraphs - one of the most advanced labour laws in existence. Numerous acts, decrees and regulations have also been enacted in recent years to improve the social status of, and provide protection for, the rural population, which is largely indigenous.

"16. In this connexion brief reference should be made to the following acts and decrees:

In 1936 a decree was enacted instituting a system of rural missions to raise the cultural level of the rural population.

In view of the existence of many forms of communal property dating back to colonial times, an act was adopted in 1937 regulating the comunas and defining the legal status of the peasant comunidades.

In 1938, it became mandatory for landowners to contribute to the support of estate schools.

In 1948 the Indian Affairs Board was established.

"17. The legislation requiring the construction of housing for agricultural workers in accordance with certain standards of hygiene and comfort laid down by the State is at present strictly enforced.

"18. As a first step towards land reform, the restoration to the State of its uncultivated land is being studied and carried out with a view to its transfer to agricultural workers."

"19. The facts I have given indicate that slavery has not existed in Ecuador for more than a century, that there is no forced labour of any kind, that there is no legally recognized form of servitude, and no practices resembling slavery. The law protects the worker and safeguards his freedom and right to choose what work he will do, and the free enjoyment of the fruits of his labour; it also protects him in case of accident, sickness or dismissal. Moreover, a continuous educational campaign is being waged to eradicate any social customs which conflict with the democratic principles, on which Ecuador's social system is based. Similarly, constant efforts are being made to improve the standard of living of workers, urban and rural alike, through housing, public health, school and roadbuilding schemes..."



54. In a letter addressed to the Rapporteur, dated 10 January 1955, with reference to his letter of 30 November 1954, the Acting Chargé d'Affaires of the Delegation of Ecuador to the United Nations transmitted the following additional information supplied by the Government of Ecuador:

"... The quotation from the publication Indigenous Peoples contains references to the following forms of labour in Ecuador which have been said to be analogous to slavery: (a) the huasipungo, which is described as 'a small piece of land which the estate owner makes available to the Indian worker and on which the latter is entitled to build a house, cultivate a garden and keep a few head of cattle'. A list is given of the tasks which the huasipunguero and, in many cases, his wife are required to perform. Quotations are also given from some provisions of our Labour Code which regulate this form of labour in Ecuador, and also from parts of a study carried out by an official Ecuadorian agency. Other forms of labour in the mountain region, represented as special forms deriving from the huasipungo, are then described. These are the huasicamia, the cuadrero and similar forms, and the share-farming system (aparceria). Lastly, mention is made of a peculiar form of Indian agricultural labour which is typical of certain districts of the Ecuadorian mountain region, that of the yanapero.

"The description given, however, fails to explain and point out that while these forms of labour, which are referred to as forms resembling slavery in Ecuador, are historically of feudal origin - as for example in the case of the huasipungo which is based on a relationship resembling that between feudal lord and serf - Ecuadorian legislation, instead of abolishing ancient social customs, has followed the prudent course of enacting regulations for these institutions in order to convert them into a contractual form of labour.

"This statement is supported by the following extracts from the Ecuadorian legislative provisions which are designed to regulate such forms of agricultural labour.

"Article 244 of the Labour Code defines the huasipunguero as follows: '... a person who is employed on a farm for remuneration payable partly in money in the form of a daily wage and partly by the use of a holding granted to him by the employer'. According to article 250 of the Code, the area of the holding (huasipungo) 'shall be in proportion to the area of the estate, the nature of the land, the kind of crops, etc. The conditions under which the holding is granted shall be taken into account when fixing the pecuniary remuneration payable to the huasipunguero; nevertheless, such remuneration shall not in any case

be less than half the minimum wage fixed for day labourers in the same locality'. Article 251 states, with regard to the length of the huasipunguero's working day: 'nevertheless, a huasipunguero shall not be required to work for more than four days a week'.

"Articles 246 and 247 define the 'yanapero' or 'ayuda' and the 'partidario' or 'aparcero' respectively.

"As specifically provided by article 251, the hours of work, compulsory rest periods, etc., observable in all these forms of employment are governed and protected by the general provisions respecting these matters (except the huasipunguero's orking day, which as mentioned above is restricted to four days a week). Article 253 lays down the employer's obligations to the huasipunguero and his family which are additional to those specified in the contract and to such obligations of a general nature as are applicable. Among others, mention should be made of the obligation to allow the huasipunguero to cut wood free of charge in the woods on the estate for his domestic use and to take such quantity of water as may be necessary for the same purpose from the springs and water supplies existing on the estate, and to allow the huasipunguero to keep a fixed number of head of livestock on the natural pastures of the estate. The employer is also under a duty to provide the huasipunguero with suitable housing, etc. etc. Article 263 provides that an employer shall not compel his huasipungueros or in general his agricultural workers to sell the animals which they possess, the products of such animals, or the crops of the holding, etc. The labour authorities are empowered to impose special fines on any employer who contravenes the provisions of this article. Article 185 (p) of the Constitution of the Republic provides that deprivation of the huasipunguero without due cause is to be considered as improper dismissal. Furthermore, article 262 of the Labour Code provides that if a huasipunguero is dismissed he is entitled to remain on his holding until his crops are harvested.

"'Produce-sharing tenant' (partidario), (aparcero) means a person who cultivates a prescribed area in virtue of a contract for produce-sharing farming (article 247). Under a contract for produce-sharing farming the land is provided by the employer and the labour by the tenant and the products are divided between them. Either party may provide the seed, animals and implements of work, but the share of the products to be attributed to the tenant must not in any case be less than one-half. The Labour Code lays down the conditions which the parties to a contract for produce-sharing farming must fulfil, the particulars which the contract must contain and the procedure for termination of the contract (articles 267, 268 and 269). Special obligations bind the purchaser of an estate to which a contract for produce-sharing farming is attached, the object of the

particular provision being to protect the aparcero's interests (article 275). The Labour Code goes out of its way to stipulate expressly that the duties of an employer towards a produce-sharing tenant (partidario) are the general duties to which employers are subject, in so far as they are applicable; there are also special obligations intended to secure the aparcero's rights generally (article 280).

"The yanapa is a system of benefits based on the use of the land. The Labour Code defines it as follows: '264. "Casual worker" (yanapero, ayuda) shall mean a person who undertakes to work on a farm a specified number of days in the month or week, according to agreement, in return for specified advantages which he receives from the employer'. It will be seen that the Code itself prescribed categorically that this undertaking must be 'according to agreement', and hence cannot be compulsory. Article 259 lays down the advantages in return for which the yanapero or ayuda may be required to work. These advantages must take the following form: the right to graze his cattle on the pastures of the estate; the right to utilize the water of the estate for the irrigation of the crops sown on land not belonging to his employer; and the right to utilize the wood on the estate. This is admittedly a defective labour system, which arose as the result of local conditions now tending to disappear; but we cannot agree that it resembles servitude, much less slavery.

"It will be seen from the foregoing that in drafting the Labour Code - a body of protective legislation which is modern in scope and conception, which is comparable with the best legislative systems of the American continent, and which defines the social rights of the Ecuadorian workers in legal institutions that exist in many communities and in new institutions suited to economic and social conditions in Ecuador - the Ecuadorian legislator bore in mind the need to extend the protection of the Labour Code to agricultural workers and devoted a chapter to the regulation of special forms of labour which have existed in Ecuador since time immemorial. Consequently, any statement to the effect that slavery or forms of labour resembling slavery exist in Ecuador are entirely without foundation. It must be acknowledged, however, that some grounds for assertions to the contrary may have been given by situations created as the result of individual malpractices which violate the law.

"In conclusion, it is pertinent to quote the general provisions of the Labour Code and the Political Constitution of the Republic which apply irrespective of any other considerations and independently of any subsidiary provisions and with which, in the last analysis, both employers and workers must comply in regulating their mutual relations.

"The statutory provisions of the Labour Code regulate the relationship between employer and worker and apply to the various forms and conditions of employment.

"According to article 3 every worker is free to engage in such lawful employment as he may choose and that he may not be compelled to work without his consent. It is expressly stipulated as a principle that all work must be remunerated. Article 4 lays down that it is not lawful to waive the rights granted to employees by the Labour Code. Article 5 provides that the judicial and administrative officials of the Ecuadorian Government are under a duty to give employees timely and due protection for the purpose of ensuring and enforcing their rights.

"Article 161 of the Constitution of the Republic of Ecuador provides that 'no contract shall be valid which places one person at the disposal of another, in an absolute and indefinite manner; nor may conditions be prescribed by statute which impair the dignity of the human person'.

"Article 170 of the Fundamental Charter lays down that work is compulsory for all members of the Ecuadorian community, subject to considerations of age, sex, health, etc., and subject to freedom of choice.

"The Constitution provides that the Ecuadorian State is responsible for ensuring that justice is done in relations between employers and workers, that the dignity of the worker is respected, that he is assured a decent existence and given fair wages to meet his personal and family requirements.

"Article 185 states the following basic principles with which the statute law governing conditions of employment generally must conform:

(a) A working contract shall be compulsory between employers and workers, in the form prescribed by law.

(b) The worker's rights are inalienable, and any stipulation to the contrary shall be null and void.

(c) The State shall fix minimum wages for the various branches of work and establish family allowances.

(d) Remuneration for work shall be immune from encumbrance, save for the payment of alimony, and may not be paid in bonds, vouchers and/or other form which is not legal tender. Pay periods shall not exceed one month. Wages shall not be subject to rebates or deductions, unless legally authorized.

(e) The maximum working day shall be eight hours; no work shall be done on Saturday afternoon, so that the weekly total shall not exceed forty-four hours, subject to the exceptions prescribed by law. Night work shall be paid as overtime, and may not be performed by women, or minors under eighteen years of age. For underground work, the maximum daily time shall be six hours, and the total working day shall in no case exceed seven hours.

(f) Every worker shall enjoy a weekly rest of forty-two continuous hours, and also annual holidays. Wages shall be paid for these vacations, as well as for weekly days of rest and legal holidays. Regulations shall be established for the application of this paragraph.

(g) Both employers and workers are guaranteed the right to form unions for purposes of professional advancement. No one may be compelled to join a union. Public servants, as such, may not form unions.

(h) Collective agreements receive special protection.

(i) The right of workers to strike, and of employers to order lockouts, is recognized and regulations shall be established for their exercise. Workers of public service undertakings and institutions may not strike except in conformity with special regulations.

(j) Working mothers shall be subject to particular care. Women in pregnancy shall not be obliged to work during the period prescribed by law, before and after birth, but shall be entitled to full remuneration. In addition, nursing mothers shall be allowed the necessary time off work for feeding their children.

(k) Work shall be prohibited for minors under fourteen, except as authorized by law, and regulations shall be established for the employment of minors under eighteen.

(l) It shall be compulsory for employers to establish apprenticeships, as prescribed by the law on industries and trades requiring technical knowledge.

(ll) For the settlement of labour disputes, boards of conciliation and arbitration shall be constituted, composed of workers and employers and presided over by a labour official.

(m) In order to safeguard the health and lives of the workers, hygiene and safety measures shall be prescribed.

(n) All workers shall receive a share of the net profits of their respective firms, at a percentage fixed by law, which may not be lower than five per cent. The distribution shall be governed by law.

(ñ) Sums owed by an employer to workers for wages, salaries, indemnities or retirement pensions shall constitute a prior claim, having preference even over mortgages.

(o) Agricultural labour, particularly that performed by Indians, shall be the subject of special regulations in regard to working days and other matters. There shall also be regulations for other types of work, in particular artisan work, mining, domestic service, and work performed at home.

(p) Deprivation of the huasipungo without due cause shall be considered ~~as~~ improper dismissal.

(q) There shall be equal pay for equal work without distinction as to sex, race, nationality or religion. However, special knowledge and practical experience shall be taken into account in the determination of such pay.'

"Under article 186 of the Political Constitution the conclusion of contracts is not subject to any restrictions other than those prescribed by statute."

FRANCE

(Morocco Protectorate)

55. The Government of France states in its reply to the Questionnaire (E/AC.33/10/Add.42, p. 11) that:

"There are still some traditional forms of involuntary service, more or less imposed by landowners to obtain casual labour during the ploughing, sowing and harvest seasons and for other work. In most cases, involuntary and imposed service is not absolutely unpaid, but it is remunerated in kind (food). This service is called 'Touisa' or 'frida', the use of which was formerly general throughout Morocco but which is gradually dying out, thanks to the repeated instructions given to Moroccan chiefs by the control authorities and the supervision, which is as strict as possible, exercised by these authorities to prevent and punish these offending practices."

FRANCE

(French Equatorial Africa)

56. The Government of France states in its reply to the Questionnaire (E/AC.33/10/Add.42, p.3) that:

"In French Equatorial Africa, the present symbiosis of the Babingas and of the Negroes gives rise, at any rate in its early stages, to a state of semi-servitude.

"In some parts of the Middle Congo, small groups of Babinga pygmies, a few hundred persons, inhabiting inaccessible districts, live in contact with the Negroes on whom they are dependent. Their state, which is based on inequitable barter, approaches very closely to servitude. The negrillos, being incapable of working iron, are compelled to obtain their primitive weapons and tools from their neighbours, the Negroes, living in the clearings of the equatorial forest and have been obliged by their lack of money for payment to agree to work for their suppliers, to whom they have to give part of the game, and crops gathered in the forest. These obligations have in the course of time degenerated into more or less freely accepted servitude. The fact that the negrillos are a very small minority living in a state of isolation explains why the Babinga groups are only beginning to feel the need for development and emancipation offered them by the presence of the French."

#### INDIA

57. The Government of India states in its reply to the Questionnaire (E/AC.33/10/Add.70, pp.3, 4, 6 and 7, and E/2548, Section 28, p. 51):

Bihar: "Involuntary unpaid service ... exists in various forms, e.g., the loan of bullocks and ploughs for cultivation and transport; or the payment for involuntary labour at rates below the prevailing market rate. Awab and Bogari have been abolished by tenancy legislation and the offence has been made penal ..."

Madras: "In some districts of this State landlords sometimes exact involuntary unpaid service from their tenants in the following manner:

"(i) Tenants are required to render personal service in the cultivation of lands in the direct possession of their landlords and to make use of their cattle for ploughing such lands (ii) with a view to collect manure, tenants are required to tend their sheep and goats on the lands in the direct cultivation of their landlords. Tenants agree to render such unpaid service mostly on account of the competition to get lands on lease..."

"The Land Revenue Reforms Committee appointed by this Government has recently submitted its report on Land Tenures and the legislation that may be undertaken with reference to the

Committee's recommendations is expected to free the tenants from vexatious obligations. Further an enquiry is being conducted in select villages of the State (as part of an All-India Scheme) to ascertain the conditions of the agricultural labour as this practice of involuntary unpaid service prevails in this State..."

West Bengal: "The land tenure systems know as Chakran and Ghatwali are accompanied by obligations on the part of holders thereof to render services to the landlord in lieu of the usufructs of the land. These systems are very old and are gradually dying out.

"The practice of forced labour or involuntary unpaid service, which is known as begar, is prevalent in comparatively backward areas of the State. With the growing consciousness of the people about their fundamental rights, this evil is gradually disappearing."

Punjab: "Certain traditional forms of voluntary unpaid service is found to exist in the Kulu Sub-Division of Kangra District where such service is performed either for the landowners or for the local Devtas. This service, however, is also rendered in lieu of rent concessions given by the landowners and in the case of Devtas, it is not exacted by force, but is rendered willingly by tenants for the sake of spiritual benefits which they expect to gain by such service."

58. The ILO publication, "Indigenous Peoples", contains the following statements (pp. 392-395):

"In spite of legislation prohibiting [work or service exacted by zamindaras, mulguzars, and other non-cultivating landowners or proprietors from their tenants], tenants are compelled to do some type of agricultural labour in their (landlords') fields for a number of days in a season or a year either without wages or for some very meagre wages. Sometimes these landlords give house-sites and a plot of land for cultivation to the inhabitants in the village on payment of rent or on a contract of payment of a certain share of produce. Usually such a tenant is made to work in the fields of his landlord, or do some domestic work. Sometimes his family members are also made to work for the landlord. Such service may be free in lieu of grant of land or a payment of very meagre wages. The tenants cannot refuse to work or bargain for wages because there is a danger of their being ousted from the land or house-sites. These are the common characteristics of forced labour exacted by landlords in many rural parts of India where landlordism exists..."



"According to the evidence given before the Special Committee appointed in 1948 to investigate the socio-economic conditions of the aboriginal tribes of the province of Madras ] complaints were lodged to the effect that the aborigines received no remuneration for certain types of forest work done for contractors and their agents. It is said that the rapacity of forest contractors and their agents was so great in the Parentapalli area a few years ago that some of the Konda Reddis had to flee to other places ..."

"...Forest contractors ... arrogate the same status to themselves as that of government officers and landholders and claim the unpaid labour of aborigines for gathering minor produce."

#### INDONESIA

59. The Government of Indonesia states in its reply to the Questionnaire (E/AC.33/10/Add.89) that the following was the position as to servitude in 1937:

- "(a) continued existence of voluntary servitude is to be found in backward areas;
- (b) servitude in family relationships exists in some parts of the Moluccas;
- (c) voluntary servitude in Kalimantan and Timor exists based on the local common law or loyalty to the chiefs of those communities."

The reply adds that:

"due to circumstances (no special investigation has been conducted), it cannot be said that the conditions described in sub-paragraphs (a), (b), and (c) have now disappeared."

#### JAPAN

60. The Government of Japan states in its reply to the Questionnaire (E/AC.33/10/Add.99)<sup>1/</sup> that:<sup>2/</sup>

<sup>1/</sup> An earlier reply to the Questionnaire was submitted by the General Headquarters, Supreme Commander of the Allied Powers (E/AC.33/10/Add.40).

<sup>2/</sup> The quotation which follows contains amendments (underlined) to the Japanese Government's reply to the Questionnaire (E/AC.33/10/Add.99), requested by the Government of Japan in a letter addressed to the Rapporteur dated 28 December 1954.

"A typical form of the 'labor boss system' was found in the practice of the so-called 'labor supply business'. A boss who operates the business controls such laborers as he has mustered or as have looked to him for help by means of establishing a personal relationship akin to that between parent and child in a family, and, in compensation for giving them maintenance and protection, hires them out to a third party. The boss collects the earnings of the laborers and pays them any amounts he may determine at his discretion, retaining a share of the wages for himself to live on. Namely, the 'controlling power over the laborers' is the only asset in this business. The relations between the boss and laborers are mainly governed by feudalistic morals of love and duty, and are peacefully maintained in general. Except for some instances in the construction works and coal-mining, both in Hokkaido, extreme cases of unlawful restriction of personal freedom, incarceration and intimidation have scarcely been reported since the beginning of the 20th century...

"In the meanwhile, there had been a development in the labor supply business. As against the original form of supplying labor as demanded, it now envisaged the completion of works under a sub-contract, and assumed an appearance of a legitimate business. But in reality it undertook only such works as could be done by man-power alone and may be identified with the 'labor boss system', as it was founded on the personal control of laborers by the boss and was never free from the existence of an intermediate exploitation in a broader sense.

"In this period, cases of restraint on personal freedom through confinement, intimidation and violence, if any, came to be quite few in number. There remained a management-labor relationship based on economic or personal relations of subordination.

"After the enforcement in 1947 of the Employment Security Law and its Enforcement Ordinance, however, such labour supply businesses excepting those operated by labour unions with the permission of the Minister of Labour are strictly prohibited, and rigid controlling measures are being taken through the Public Employment Security Agencies.

"Another form of 'labour boss system' was a private employment agency of shady character. Such an agency is also controlled strictly by the above-mentioned law, which regulates private employment agencies and recruitment of workers as well. As the result of this measure, private employment agencies of shady character, which tended to flourish in the textile industry, have been completely eliminated and the Public Employment Security Agencies have come to be utilized extensively.

"There is no forced unpaid labor at present in Japan in the strict sense of the terms. If the meaning of 'unpaid' is extended to include providing minimum necessities of life, such practice existed in the past among farm hands, nursery maids, house servants, apprentices, navvies and miners and so forth; such cases were mostly accompanied by money in advance payments ... Now that four and a half years have passed since the enforcement of the Labour Standards Law, such practice hardly exists, and extremely rare cases of this practice are punished whenever found.

"In this country, there are about 2 million farming families, each owning less than one acre of farm-land, and it can be foreseen that in spite of the land reform their economic life will suffer more want in the future.

"If measures to be taken by the Government will not be sufficient, there will be the possibility of a recurrence of 'forced unpaid' labour in an extended sense of the term, by the pressure of a surplus population in the rural villages."

MEXICO<sup>1/</sup>

61. The ILO publication, "Indigenous Peoples", contains the following statement (p. 351):

"Owing to the development of the ejido system of agriculture in various Indian areas, the institution of the attached tenant labourer appears to be less common in Mexico than in other Latin American countries. However, the system of locating (acasillar) the peon in a village on the estate appears to be similar to that of colonato 2/ ... It has not been possible to secure details on the characteristics of this system nor on the areas in which it prevails..."

PERU<sup>3/</sup>

62. The ILO publication, "Indigenous Peoples", contains the following statement (pp. 351-353):

"In Peru the two main types of tenancy among the Indians are those of colonato and yanacónaje 4/... In the case of colonato the contract is for an unspecified period and very frequently results from a situation of fact

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1/ For the reply of Mexico to the Questionnaire, see E/AC.33/10/Add.54.

2/ See paragraph 44 above for a description of colonato.

3/ For the reply of Peru to the Questionnaire see E/AC.33/10/Add.52.

4/ This word dates back to the colonial period. A yanacón or yanacóna was a comunidad Indian who, having lost his land, became a serf on a big estate working for remuneration in kind, in cash, or in land-use.

in which previous agreement has had no part: the Indian was born on the estate and is obliged to accept conditions established in the past by custom and tradition. Among these conditions are to work so many days in the month on the land of the estate, to sow a given area for the landlord with his own seed, and to bring in the crop for him; to turn over to him a given amount of his own produce; to render personal services in the owner's house, whether on the estate or in town; and others which it would be tedious to enumerate. He has to fulfil these obligations resignedly because experience has taught him that the landlord disposes of expeditious means to force him to do so in case of resistance or negligence...

"As a rule, because of the depressed economic and social condition of the Indian, a conflict of rights between tenant labourer and landlord cannot really arise. Practically, the colono remains outside the benefits of the law, for, although its provisions are designed to protect him, in practice they are without effect. Any incident or disagreement between the two parties is settled by the will of one of them - the landlord.

"Manuel Sánchez Palacios, the former Peruvian member of the Committee of Experts on Indigenous Labour, describes yanaconaje... as follows:

"The yanacona is a worker who performs two contracts at the same time: one in which he undertakes to serve the estate as a regular worker, and another by which he receives a piece of land to cultivate on his own account as a means of attaching him to the estate. The second of these contracts is one of tenancy for cash or share. Where the Indian receives his land for rent, he may pay this rent in cash, but he usually does so in products specified in fixed quantities by the employer. Where the second contract is one of share tenancy, the worker is described in various ways in different parts of the country: partidario, socio, compañero, etc.'

"In a special article on this subject the same author observes that in a share tenancy the landowner provides not only the land but seed and tools, and the Indian his own labour only; and if the harvest is bad both landowner and tenant suffer a proportionate loss. But in yanaconaje the only loser is the Indian, because the landowner receives a fixed rent which is not exposed to the vicissitudes of production...

"That in practice the difference between yanaconaje and colonato is in some regions very hazy is attested by the following definition of a yanacona worker in the Cuzco region given recently by Francisco Ponce de León: 'A yanacona is a peon who pays the rent of the plot of land he occupies by performing agricultural labour for a given number of days per week on the hacienda...'

"Apart from cash tenancy proper, which is rare in Indian areas, several other types of tenancy appear to exist in various parts of the highlands. The following have been mentioned: rent expressed in terms of labour; rent expressed in terms of produce (aparcería), which may be up to 50 per cent of the crop; and mixed tenancy. In the first case the rent may be paid in the form of a specified number of days of work without wages, or in the form of a specified quantity of work per year payable at a yearly rate based either on the current daily wage or on an agreed figure. In the second case the proportion of the crop-rent is not agreed in advance but depends on the value of the production... In both cases, however, the tenant is often expected to render personal services on the estate or in the house of the landowner, either for a small wage or for no remuneration at all..."

63. In the same ILO publication it is stated that (pp. 380-382):

"Various Peruvian experts on Indian affairs have claimed at one time or another that the Indians in certain parts of Peru still perform services for landlords in circumstances which, in the opinion of the experts in question, show that such services are compulsory. In reply to allegations concerning the existence of pongueaje made before the Economic and Social Council, the Peruvian Government stated that personal services performed by the Indians disappeared completely with the advent of the Republic and that pongueaje had completely disappeared by the middle of the last century..."

"It should be pointed out, however, that in the opinion of the Ad Hoc Committee on Forced Labour the authorities are unable, for various reasons, to put an end to practices such as pongueaje... 1/

"In a work published in 1949 Atilio Sivirichi mentioned the following five forms of service performed by the Indians:

'Pongueaje, or domestic duties which the Indian is obliged to perform on several days in the week; mitani, or unpaid personal services in the landlord's house, which the Indian women are obliged to perform for a number of days, weeks or fortnights; herding (pastoreo), in exchange for food only, almost always performed by children; service as public postilion (chasqui), carrying letters and goods from one place to another; service as private messenger and carrier (propio), almost always without pay or for a very small reward...'

"Developing his own interpretation of pongueaje, the same author describes it as follows:

'The unpaid personal service most commonly performed by Indians in Peru is that of pongo. In the Sierra landowners, and even those who own no land, have unpaid servants whom they feed inadequately and for

1/ Report of the Ad Hoc Committee on Forced Labour, para. 226, p.52.

whom they do not provide the most elementary conditions of sanitation and health. The pongo is the serf of the Peruvian highlands; he is obliged to perform domestic tasks of every kind ... and is treated as a beast of burden ... His daily work starts at dawn and lasts well into the night and, as a night watchman, he cannot even be sure of the balm of sleep; he is given no bed and sleeps on the ground covered with his poncho, the only article of clothing he has to protect him...'

"The opinion of other writers, found in some cases in official sources, is that the institution of personal services is most widespread in the southern regions of the Sierra. Thus, for example, it is claimed that in some places in the province of Puno, near the Bolivian border, the Indian tenants know as arrendires frequently have to act as domestic servants in the landlord's house (nearly always situated in the village), as well as to work on the estate with their families at farm jobs and herding... If the Indian prefers not to do this domestic work he must find a substitute and pay him in cash... In some districts in the province of Cuzco it is reported that the Indian tenant not only has to act as domestic servant in the landlord's house (as pongo or semanero), but is also obliged to do work known as faena and huata-faena. The former is emergency work (making a bridge, clearing roads, etc.) which the landlord can call on the Indians to do at any time without pay. The huata-faena (faena of the year), is said to be agricultural service which the tenant labourer is required to perform once a year for the estate owner, and for which he has to provide the necessary workers (from 10 to 40). For this work the tenant receives no remuneration and, at the fiestas held on such occasions, he is obliged to spend a considerable amount of money on spirits, chicha, coca, cigars, etc., for the people... In some districts, according to another author, the entable general is applied, the Indians working for the landowner every day except Saturday and Sunday; in others they work three weeks for the landowner and one week for themselves. In yet others a week of faena alternates with a week off duty. Finally, in other districts three days a week are devoted to the landowner. In addition to the services mentioned above, the author in question states that the Indians are frequently required to use their own mules to transport the owner's harvest from the farm to the estate house without remuneration...

"Kuczynski-Godard and Paz Soldán describe the situation of the Indian tenant labourer in the Yunguyo region (province of Puno) as follows:

'He is given a small plot of land to cultivate, say not more than two to four yuntas... In return for this land he and his family work in the fields and pastures for the farmer. Often there are other duties to perform in the master's house, which is almost always in the village; the pongaje and the mitani. The former involves work as houseboy, and the latter as kitchen-hand for one week in the month. If the Indian does not want to do this work he must find a substitute and pay him in cash...'

"The preliminary results of an inquiry carried out under the patronage of Cornell University and the Peruvian Indian Institute recently showed that thirteen different forms of servitude subsisted in the Vicos hacienda in the department of Ancash...

"Part V of Book 2 of the Penal Code of 1924, which is still in force, deals with the suppression of offences against individual liberty in connexion with ' a certain class of Indians or other persons in similar circumstances'. Francisco Ponce de León has stated in this regard that:

'Many groups of aborigines are in the situation contemplated by the law... On the large estates in the mountain region the aborigines are an integral part of the property, indispensable for its operation, to the point that the value and profitableness of such properties are assessed in terms of their population of aboriginal tenant labourers or peons. As tenants, and because of their ignorance and poverty, these aborigines are subject to the will of their masters in the conditions, contemplated by the law, of veritable servitude or in one bordering on servitude...'"

#### PHILIPPINES

64. The Government of the Philippines states in its reply to the Questionnaire (E/AC.33/10/Add.67) that:

"Such practices (mentioned in question No. 3 of the Questionnaire ...), which are remnants of the country's colonial past, are on the way to complete abolition.

"... Practices arising from traditional forms of involuntary services rendered by tenants to their landlords have been reduced to a minimum by the passage of enlightened legislation governing the relationship between landlords and tenants and the recognition of the rights of labour in agriculture as well as in industry. Among such laws may be mentioned the Rice Share Tenancy Law, Act No. 4054, as amended; Commonwealth Act No. 146, as amended; Commonwealth Act No. 103, as amended, etc.

"That the measures mentioned above have produced effective results in the eradication of slavery and other practices related thereto is shown by the fact that this matter is no longer looked upon as a problem in this country. There is also a negligible number of cases on record involving violations of the laws penalizing slavery and its allied practices."

In a letter addressed to the Rapporteur, dated 10 January 1955, with reference to his letter of 30 November 1954, the Permanent Representative of the Philippines to the United Nations transmitted the following additional information supplied by the Philippine Government:

"Slavery or involuntary servitude has been prohibited in the Philippines since the early part of the twentieth century. This prohibition is embodied in our Constitution, which provides that 'no involuntary servitude of any form shall exist except as punishment for crime whereof the party shall have been duly convicted'. In addition, our laws prohibiting forced labour carry penal provisions."

UNITED KINGDOM

(The Persian Gulf States)

65. The Government of the United Kingdom states, in its reply to the Questionnaire relating to the Persian Gulf States (E/AC.33/10/Add.98), that:

"... (b) in two of the States some traditional forms of involuntary unpaid service are exacted for the cultivation of gardens."



## CHAPTER IV

### MATERIALS RELATING TO DEBT BONDAGE (INCLUDING PLEDGING AND PAWNING OF THIRD PERSONS AS SECURITY FOR DEBT)

66. From the information supplied in accordance with Council resolutions 238 (IX), 276 (X), 388 (XIII), 475 (XV), and 525 A (XVII), the Rapporteur has extracted the following statements relating to debt bondage, including pledging and pawning of third persons as security for debt:

#### BELGIUM<sup>1/</sup> (Belgian Congo)

67. In her ancillary memorandum (E/AC.33/R.14, p. 6) Mme Vialle states that:

"... In the Belgian Congo the custom (pledging of self or a third person in payment of a debt) is known as kivi. A kivi is an insolvent debtor who gives himself up to a member of another clan on the condition that the latter pay his debt. The kivi becomes a slave, subject however to the restriction that he cannot be sold without the members of his clan having first been invited to set their clansman free by reimbursing his owner...."

In a letter addressed to the Rapporteur dated 27 January 1955, with reference to his letter of 30 November 1954, the Permanent Representative of Belgium to the United Nations stated that "As a result of the operation of European and indigenous courts, debt bondage is now repudiated by all the indigenous inhabitants as an infringement of their liberties."

#### CEYLON<sup>2/</sup>

68. In his ancillary memorandum (E/AC.33/R.11, p. 22) Mr. Lasker states that:

".... In Ceylon the middleman, either a local storekeeper or an itinerant vendor, still is sometimes a power through his ability to bring whole communities into his debt and exercising over them an influence that determines all their economic activities. But here...."

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1/ For the reply of Belgium to the Questionnaire, see E/AC.33/10/Add.27, 31 and 93. See also para. 16 above, relating to "debt slaves".

2/ For the reply of Ceylon to the Questionnaire, see E/AC.33/10/Add.11.

the official encouragement of co-operative credit institutions and other reforms have shown promise of a speedy suppression of debt bondage in the specific meaning of that term here adopted."

CHINA<sup>1/</sup>

69. In his ancillary memorandum (E/AC.33/R.11, pp. 14-16) Mr. Lasker states that:

".... Usury is widespread and has repeatedly been legislated against. It easily leads to debt bondage because the payment of debts is traditionally regarded as a moral obligation on the whole family, and because payment of debts by services also is an old custom. In modern times such indebtedness has become transformed into debt bondage because cheap labour has become a major asset of many industries and is sought by some of their agents not only by legitimate but also by unlawful and morally dubious means. Often two economic functions have been merged, those of the moneylender and those of the factor. The same individual, either on his own account or as an agent of absentee entrepreneurs and capitalists, provides either a group of people or a whole community with the working capital, raw materials, and tools required for an industry or a craft - at charges of his own choice and not always clearly stated at the start - and assumes the right to the whole output on his own terms in exchange for cash advances or over-drafts. With an assured market and with technical assistance that often permits of a greatly increased and more uniform output, the producers are tempted to accept this arrangement, only to find after a time that they have fallen into the power of the middleman and can no longer extricate themselves from his dictation. In extreme cases this extends to all the members of the family, so that for example the cultivator who originally merely desired more remunerative labour opportunities for insufficiently employed members of his household now must leave the plow and engage in a sweated craft.

"Similar means are sometimes applied to force agricultural production into commercial channels instead of primarily serving subsistence. After a period of years, the middleman-creditor's hold on the family may be so great that he can force it to abandon one or more of its children to him as hostages of its good faith, either to serve him away from their home or even to be sold into prostitution or slavery.... Both in the rural and in the urban population of China, indebtedness is so prevalent that in extreme cases it easily degenerates into bondage. As in other parts of Asia, it has been aggravated by social usages which compel individuals and families to accept liabilities far beyond their means....

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<sup>1/</sup> For the reply of China to the Questionnaire, see E/AC.33/10/Add.64 and 76; and E/2548, Section 11.

"Mention has already been made of the virtual enslavement of young industrial workers by advance payments against their wages to their parents. The same method is also at times used for the purpose of securing the labour of adult female factory operatives at less than a living wage. This system becomes a debt bondage when the employer prevents the working off of the debt by piling up additional charges through fines and other deductions from the regular wage, through sale - far above cost price - of commodities, and through additional loans. The existence of a status of servitude in these cases expresses itself in a discipline that robs the workers of all initiative, directs him to perform labours other than those for which he was originally hired or 'apprenticed', surrounds him with limitations on his personal freedom outside of work hours, and in extreme cases - now rare in China - locks him up in a prison-like compound...."

In a letter to the Rapporteur dated 26 January 1955, with reference to his letter of 30 November 1954, the Director of the Office of the Permanent Delegation of China transmitted the comments and observations of the Chinese Government on the statement, quoted above, as follows:

"Mr. Lasker stated in his memorandum that the payment of debts in China 'is traditionally regarded as a moral obligation of the whole family', and 'payment of debts by services also is an old custom'. Then he went on to say that 'in modern times such indebtedness has become transformed into debt bondage....'

"The Chinese Government considers such indebtedness has become transformed into debt bondage...."

"The Chinese Government considers such a sweeping statement untrue, both in laws and in practice. There may have been single cases of payment of debts by services, in China as elsewhere, but never in China has such practice been prevailing to such an extent as constituting an institution.

"Equally untrue are the exaggerations of Mr. Lasker with regard to the abandonment of children as hostages and the treatment of labourers in debt. On the mainland of China today, slave labour is being practised to such an extent that the whole country is becoming a slave labour camp. Cases of debt bondage, if any, would have been drowned in this new form of slavery.

"Additional information on laws and practices concerning this section will be found in the replies of the Chinese Government (E/AC.33/10/Add.64 and 76), the Secretary-General's report (E/2548), and the summary records of the statements of the Chinese representatives on slavery and forced labour in the Economic and Social Council and the General Assembly."

FRANCE  
(Togoland)

70. The Government of France states in its reply to the Questionnaire (E/AC.33/10/Add.42, p. 3), that:

"Mention should... be made of the persistence in Togoland of a practice involving the alienation of liberty for the benefit of a third party; this takes the form of an undertaking by the debtor to remain on the property of the creditor and to work there until the debt is discharged. During 1949, the Parquet dealt with two cases in which persons had been surrendered to third parties as security for the payment of debts; it should be added that the debtor had given his full consent and that the duration of the services was specified in advance. Such acts, which are now very rare, are very heavily punished under the Penal Code."

INDIA

71. The Government of India states in its reply to the Questionnaire (E/2548, Section 28, pp. 53-54) that:..

"....Debt bondage... generally went by the name of 'Kamiauti' and was mostly rampant in the district of Palamau and Hazaribagh. The usual form it took was that the landlord advanced some loan to an agricultural labourer in lieu of which he was required to work for the landlord on low wages. In order to eliminate the evils of the system, the Bihar and Orissa Kamiauti Agreements Act 1920 was passed which provides that no such agreement for rendering labour could be made for a period exceeding one year. The agreement should be made by a registered instrument and must provide for wages at fair and equitable rates and the debt together with interest will be deemed to be cancelled at the end of the year. As a matter of fact the Kamiauti system has practically ceased to exist except in a few isolated places. The administration of the Kamiauti Agreement Act is being supervised by the District Officers as well as by the staff of the Labour Department who take adequate steps against any contravention of the Act."

72. In his ancillary memorandum (E/AC.33/R.11, p. 17), Mr. Lasker states that:

"It is on the Indian sub-continent<sup>1/</sup> that bondage for debt as part of an inherited class system has found its largest and socially most devastating development in Asia. The system is variously known as Kamiauti, Khamberi, goti, in some parts of southern India as

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<sup>1/</sup> In his memorandum Mr. Lasker notes that "there is not yet available a separate body of data for India and Pakistan" (E/AC.33/R.11, p. 9).

Marichittu and casigallu, and in Hyderabad as baghela. In addition to servile relations arising from debt that go back to pre-colonial days, there are to be found also modern forms of debt bondage designed to secure labour on the cheapest possible terms and resembling customs that have similarly grown up, as already shown, on the margins of modern industry in China and Japan. Indeed, the labour recruiter and the factory-moneylender have taken advantage of earlier customs, so that it is often difficult in a given instance to decide whether debt bondage arises from new uses found for the exploitation of population groups traditionally of low status or whether certain branches of business and industry have created for their own ends new methods of subjecting formerly free and self-directing persons to a regime little short of slavery.

"Action taken by the Central and Provincial Governments of India, to scale down rural indebtedness by the appointment of Debt Adjustment Boards acting under the provisions of Agricultural Debts Relief Acts shows that the existence of such indebtedness in itself, even though debts may be large in relation to income, is not regarded as a form of servitude; for if that were the case it would be covered by the legal provisions for the punishment of slavery. However, indebtedness in India often is a characteristic condition of an ethnic group which for generations has in one way or another been held down to a status of involuntary servitude. It is a form of bondage in the case of millions of aborigines who have been brought into contact, directly or indirectly, with the modern economy. Although both their means of livelihood and their standards of living still are relatively primitive, they have come to desire modern articles of consumption; they resort to credit when the rent charges of the landlord or the assessments of the government absorb all their income above that required for bare subsistence. The most frequent cause of indebtedness here as elsewhere is the necessity of the cultivator to pay his rent in advance of the harvest, so that he must either sell his crops in advance at much less than it would bring later or borrow the money at a high rate of interest. In either case, there is little likelihood, unless the Government intervenes with restrictive regulations, that he will ever be free of debt again, since he can never earn enough to catch up with the accumulating charges against him, whether on the landlord's books or on those of the professional moneylender. And from the standpoint of these persons this is just as it should be; they are more interested in being able to command the debtor's services or his produce (on their own terms) than in a direct return on their investment.

".... The debtor's helplessness in India sometimes is intentionally accentuated by those who profit from it by appeals to religious beliefs that re-inforce his sense of inferiority and guilt, so that, instead of taking advantage of the courts and of such special agencies as have been set up to help him defend his rights, he regards his exploiter as his only protector and completely subjects his will to that of his master.

"When such a relationship is continued over a long period, sometimes through several generations, the health and morale of the debt slave often are so seriously undermined that he no longer can take advantage of opportunities to improve his condition, whether by escape or by recourse to such assistance as may be offered by the authorities. As a result, whole populations now are in need of a protective guardianship and gradual rehabilitation....

"In districts adjacent to areas with a large indigenous population, moneylenders often are in so strong a position that even the public authorities have come to regard them as indispensable functionaries in the working of the economy. This was brought out by several of the replies from Provincial Governments to the Famine Inquiry (Report, Delhi, 1945, p. 294). It is claimed that, because of their intimate knowledge of the communities where they operate, the middlemen often can give credit without collateral where a credit bank responsible to a public authority would be unable to do so....

"Sometimes, as in the case of the Kamiauti system of Bihar, which was described in the 1937 Report of the League of Nations Committee on Slavery, the debts incurred by villagers in the ordinary course of their activities are re-inforced by larger loans made for the payment of bride-price. Such loans also are nominally supposed to be repaid with labour services to the creditor; but in practice, instead of being gradually liquidated, these debts tend to grow with the accumulation of compound interest charges, so that the debtor's servile relation to the creditor becomes permanent and even hereditary.

"In some instances, as revealed for example in a recent study of the Santals, one of the largest tribal peoples of India, large numbers of aborigines have been made homeless through debt and have become dependent for their existence on employers who, in the absence of government interference, could force on them terms of service little short of slavery.

"A considerable body of recent legislation notwithstanding, bondage for debt still is the lot of millions of people in India. A spiritual apathy has developed which these measures, unless accompanied by comprehensive programmes of social rehabilitation, cannot remove. Thus, one of the papers presented at the Asia Relations Conference at New Delhi, in 1947, states that when members of population groups that have long been held down to a servile status are enabled to earn good wages, they are liable to spend a large part of their earnings on extravagant living instead of paying their debts and building up modest capital resources of their own.

"In a sense, the debt bondage, such as exists in India, reflects an excessive pressure on the land which some of the authorities concerned try to relieve by helping to provide alternative occupational opportunities. But this possibility obviously has narrow limits in countries where the accumulation of capital is very slow. Moreover,

the provision of such alternatives, whether planned or arising naturally from changing economic conditions, sometimes merely transfers a part of the population to an urban environment where its exploitation as debtors in servile dependence on a creditor continues in different forms. Thus, a recent study of mine workers in the Kolar Gold fields of Mysore revealed that more than 96 per cent of the total number of families studied were debt-ridden - the average indebtedness per family being roughly equal to nine months' income. Similar conditions have been found among domestic workers in Bombay, recruited from rural areas, among certain groups of handloom weavers, and among others.

"....The 'labour boss', or chowkar, often plays the role of recruiting agent and manager of a group of labourers; through his hands pass all their financial transactions, from the advance payment that brings them to the place of employment to the defrayal of their funeral. When such a labourer wishes to visit his home village he may be obliged to leave his wife or a child behind as a hostage. He may, once he has got into the clutches of a particular chowkar, no longer have any choice as to his place of residence, his occupation, or the source of his grocery supplies. He may never know what wages are paid in his name to the chowkar. In short, such a worker is not a wage-earner at all in a real sense of that term, but a bond servant.

"Such conditions as these are not, of course, typical of all Indian industry but occur in its margins, where the transition from traditional rural social relations to modern industrial relations is as yet in an early stage. Exploitation here takes the form of that paternalism with which the worker is familiar in his home community - with the difference that he does not gain even elementary security for himself and his family in exchange for his self-abnegation...."

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#### JAPAN

73. The Government of Japan states in its reply to the Questionnaire (E/AC.33/10/Add.99) that:

"The practice of advance money payments by employers to be deducted from wages to be received by labourers and of virtually binding the latter until account balances existed in the past among entertainment, construction and spinning industries, but the enforcement of the Labour Standards Law aiming at the severance of labour obligations from money indebtedness, has eliminated this evil practice, which hardly exists at present...."

LIBERIA<sup>1/</sup>

74. In his ancillary memorandum (E/AC.33/R.14, p. 93) Mr. Greenidge states that:

"The International Commission of Inquiry into Slavery in Liberia of 1930 found that debt bondage was very prevalent in Liberia at that time, but there is no recent information available to indicate whether it continues or not...."

NEPAL<sup>2/</sup>

75. In his ancillary memorandum (E/AC.33/R.11, p. 15) Mr. Lasker states that:

"....slavery for debt has....been suppressed in Nepal, under the Constitution of 1948, but legal decrees cannot prevent an occasional bani or seasonal labourer from getting into a debt he will never be able to liquidate and this into a permanent servile relation to his master."

PAKISTAN<sup>3/</sup>

76. See para. 72 above (footnote 1).

PHILIPPINES<sup>4/</sup>

77. In his ancillary memorandum (E/AC.33/R.11, pp. 40-41), Mr. Lasker states that:

"....One of the vestiges of the old system (of peonage) that still largely remains is the obligation of the tenant-labourer to purchase his requirements from the hacienda store or cantina, often managed by the owner's wife, where the charges usually are much above current market prices - not merely for the sake of the extra profit but

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<sup>1/</sup> The Government of Liberia has not replied to the Questionnaire.

<sup>2/</sup> For the reply of Nepal to the Questionnaire, see E/AC.33/10/Add. 9 and 80.

<sup>3/</sup> For the reply of Pakistan to the Questionnaire, see E/AC.33/10/Add. 44 and 74; and E/2548, Section 41.

<sup>4/</sup> For the reply of the Philippines to the Questionnaire, see E/AC.33/10/Add. E/AC.33/10/Add.67.



expressly for the purpose of getting the peon into his landlord's debt. This feat accomplished, which is not difficult, he can more easily be prevented from protesting, or even going to law, over any extra services or charges which the owner may wish, without sanction of law, to impose on him.

"A certain type of Philippine landowner (who possibly has his likes in other countries) is inventive enough to get his tenants into his debt by some new device when the law breaks down an old one. For example, where the proportion of his share in the crop is limited by law, he may impose a special fee for the tenant's initial right to occupy the land, or he may claim that loans must be repaid in kind at a season when market prices are lowest, so that he gets the most. The devices are too numerous here to describe. Obviously, their success results from an underlying condition that is difficult to remedy, pressure of population on the land. Therefore, the measures worked out by the Philippine Government for the resettlement of overcrowded farm populations may prove more effective in getting rid of the last remnants of serfdom, than have legal prohibitions. However, the freedom guaranteed under the Civil Code of 18 June 1949, if article 18 is fully enforced in the courts, will go far to strengthen the foundations of a free society."

In a letter addressed to the Rapporteur, dated 10 January 1955, with reference to his letter of 30 November 1954, the Permanent Representative of the Philippines to the United Nations transmitted the following additional information supplied by the Philippine Government:

"Concerning Mr. Lasker's memorandum (E/AC.33/R.11, pp. 40-41), it is expected that the supposed practices of landlords stated therein will be corrected with the enactment of Republic Act No. 1199, governing the relation between landlords and tenants in agricultural lands. Section 15 of said law provides:

'Interest on Loans or Advances. - On all loans or advances obtained by the tenant from the landholder in connection with the cultivation, planting, harvesting and other incidental expenses for the improvement of the crop plants, as well as loans or advances for the subsistence of the tenant and his family, the interest which may be stipulated shall not exceed eight per centum per calendar year: Provided that on all loans made to the tenant by the landholder, the interest shall be computed on the basis of the current price of the produce at the time it was loaned.'

"It may be stated in this connection that Commonwealth Act No. 303 prohibits employers from forcing, compelling, or obliging their labourers to purchase directly or indirectly from them merchandise, commodities, or goods of any kind or nature. As regards exaction by

landlords of usurious rates of interest on advances or loans to farmers, the same may also be corrected with the creation of the Agricultural Credit Cooperative Financing Association (ACCF), where tenants are extended credit facilities at reasonable rates payable after the harvest season."

UNITED KINGDOM  
(Gold Coast, Nigeria, Sierra Leone)

78. The Government of the United Kingdom states in one of its replies to the Questionnaire (E/AC.33/10/Add.50, pp. 5 and 6) that the practice of pawning of persons for debt has been associated with the Gold Coast, Nigeria and Sierra Leone. It supplies the following details:

Gold Coast: "The pawning of persons as security for debt is illegal. No cases of pledging human beings came to light for a number of years, but cases of this kind did reach the courts in 1937 and 1938. In recent years, only two instances have come to light and the Gold Coast Government is satisfied that the question presents no problem in the territory. It is well known that the custom is illegal and that a person convicted of the crime is liable to penalty, and for these reasons it is difficult to secure definite information as to the occurrence of these objectionable practices."

Nigeria: "In a country where slavery fifty years ago was a universal institution and slave raiding common, the only practices akin to slavery which still exist are the forms of pawning described below. These practices are not widespread. Thirty-four persons were convicted altogether during the years 1945-47, six persons in 1948, and six in 1949.

"Pawning is of two kinds. The first is the self-pawning of an adult male who pledges himself to work part of his time for a creditor to repay a debt. Such a pawn suffers no social or legal disability. The second kind is the pawning by one person of the services of another. The usual instances are:

- "(a) the pawning of children by the guardian or parents on the same terms as those on which an adult pawns himself;
- "(b) the pawning of young girls in the form of child betrothal.

"Examples of these forms of pawning, which are, of course, not countenanced by the authorities, are still known to occur in Nigeria but the practice is on the decline. In the Northern Region there is no indication of the survival of the practice except on a very small scale in Kabba Province; in the Western Region it occurs occasionally in Abeokuta and Oyo Provinces. The illegality of the practice is widely known. In Obubra in Ogoja Province a person who accidentally kills another may pledge himself to work for the relatives of the deceased in lieu of the customary compensation by cash payment.

"To place or receive any person in servitude as a pledge or security for debt is, under Section 369 (3) of the Nigerian Criminal Code, punishable with imprisonment for 14 years. By Order in Council No. 1 of 1945 all Native Courts in Oyo Province and 63 other Native Courts in the Western Region were empowered as from the 1st of March, 1945 to enforce within their jurisdiction the provisions of this sub-section. African opinion is now alive to the immorality of this practice. This factor, coupled with continual administrative vigilance, has brought about a notable decline in pawning."

Sierra Leone: "In Sierra Leone, the Protectorate (No. 2) (Amendment) Ordinance 1926 and the Legal Status of Slavery (Abolition) Ordinance 1927 put an end to all forms of domestic slavery and no cases have been heard of for a very long time. The practice by which in former years a debtor farmer would volunteer to work for his creditor for one or two farming seasons without remuneration to settle the debt has now become rare."

UNITED KINGDOM  
(The Persian Gulf States)

79. The Government of the United Kingdom states in one of its replies to the Questionnaire (E/AC.33/10/Add.98, p. 2), that:

"....A limited form of debt bondage exists in the pearling industry in Bahrain, and is carefully controlled by special local courts. It may also exist in the same industry in Qatar and the Trucial States...."

UNITED STATES OF AMERICA<sup>1/</sup>

80. The ILO publication, "Indigenous Peoples," contains, with respect to Mexican "wetbacks",<sup>2/</sup> the following summary of material in a report of the President's Commission on Migratory Labour entitled "Migratory Labor in American Agriculture", published by the United States Government in 1951:

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<sup>1/</sup> For the reply of the United States of America to the Questionnaire, see E/AC.33/10/Add. 55 and 79, and E/2548, Section 56.

<sup>2/</sup> So called because many of them swim or ford the Rio Grande River, thus entering the United States illegally in order to secure employment.

"....In the case of the Mexican 'wetbacks', the agent may receive a fixed amount for the execution of a particular task and out of this amount he pays the worker. Often the fees of the middlemen are excessive, work opportunities are misrepresented, and workers are sent to places where there are no jobs.... The 'wetbacks' are kept at work by the withholding of wages, by indebtedness to the farmer's store, and by the threat of arrest by officials of the immigration service...."

In a note addressed to the Secretary-General of the United Nations, dated 4 January 1955, with reference to the Rapporteur's letter of 30 November 1954, the Representative of the United States of America to the United Nations made the following comments and observations on extracts<sup>1/</sup> attached to the Rapporteur's letter:

"The United States Government notes that the extracts forwarded by Mr. Engen as to the alleged debt bondage or peonage in the United States are similar to allegations considered by the Ad Hoc Committee on Forced Labour and rejected by that Committee as unsubstantiated. The United States Government furnished comments indicating the falsity of these allegations, and these comments are published in the Appendix of the report of the Ad Hoc Committee on Forced Labour. In view of the similarity between the extracts selected by Mr. Engen and these allegations, and in view of their thorough investigation by the Ad Hoc Committee on Forced Labour and the conclusion reached by that Committee, this Government does not understand the basis for their further quotation by Mr. Engen in his report to the Economic and Social Council regarding slavery. However, if he decides to include these extracts in his report, the United States Government requests Mr. Engen to incorporate in conjunction with them sections of the report of the Ad Hoc Committee on Forced Labour indicated below, together with the additional note regarding the first extract. The references are to the English edition of the report, United Nations document E/2431, as follows:

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<sup>1/</sup> In addition to the extract quoted in para. 80 above, two extracts from the summary records of the Ad Hoc Committee on Slavery were attached to the Rapporteur's letter of 30 November 1954 to the Government of the United States. The Rapporteur subsequently decided, however, that as these summary records could not be considered as "information supplied in accordance with Council resolutions 238 (IX), 276 (X), 388 (XIII), 475 (XV), or 525 A (XVII)," extracts from them should not be included in this report.

"1. With regard to first extract forwarded by Mr. Engen, on the situation of so-called Mexican 'wetbacks,' as described in the report of the President's Committee on Migratory Labour in 1951, published by the United States Government under the title of 'Migratory Labour in American Agriculture', and quoted in the ILO publication, 'Indigenous Peoples':

Findings of the Committee and Footnotes thereto:  
paragraphs 525-528, pp. 117-119.

Material relating to the allegations in this extract and considered by the Ad Hoc Committee on Forced Labour:  
Appendix III, paragraphs 26-61, pp. 597-601.

Comments and observations: pp. 611-612, section entitled  
'Imposition of Forced Labour on Mexican and Other Foreign Immigrant Workers!.

....

The agreement concluded in 1951 between Mexico and the United States concerning migrant labour has been reviewed each year with amendments affording no less protection for Mexican workers legally in the United States. Enclosed is a copy of this agreement as revised in 1954 and currently in effect. The number of Mexicans legally entering the United States in 1954 as temporary agricultural workers was fifty per cent greater than in 1953. It is believed that increased efforts to prevent and apprehend illegal entrants have encouraged such legal entry, thereby assuring the entrants the protection afforded by this Agreement."

....

The findings of the Ad Hoc Committee on Forced Labour (E/2431, paragraphs 525-528) referred to in the statement of the Representative of the Government of the United States of America quoted above, are as follows:

"Imposition of Forced Labour on Mexican and Other Foreign Immigrant Workers

"525. The allegations<sup>1/</sup> concerning Mexican immigrant workers must be considered in two aspects, i.e., according to whether they refer to legal or illegal immigrants.

"526. The position of Mexican workers who have legally entered the United States of America is regulated by the Agreement of 1951, as amended in 1952, between the Governments of the United States of America

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<sup>1/</sup> See pp. 590-591 of the Report of the Committee (E/2431).

and Mexico concerning migrant labour.<sup>1/</sup> The Committee examined this Agreement and found that it provided adequate safeguards against the imposition of forced labour on Mexican immigrants whose employment and contracts are governed by the terms of the Agreement.

"527. The only precise allegation in this connection is that 'Mexicans who crossed the border into the United States of America were tied to the farms where they worked, because the penalty for breaking their contract was a fine so heavy that they could never afford to pay it'. It was implied that this was 'a kind of forced labour'. In this connection the Committee noted the observation of the Government of the United States of America <sup>2/</sup> that there is no fine laid upon the Mexican employee if he breaks his contract, 'he is merely liable to be returned to Mexico and he is not entitled to the guarantee that he will have the opportunity to work for at least three-fourths of the total work days of his contract (Articles 16 and 30)'. The Committee found this statement to be in accordance with the terms of the Agreement <sup>3/</sup> and concluded that the allegation was not substantiated.

"528. With regard to the allegations concerning illegal Mexican immigrant labour, the Committee examined the report of the President's Commission on Migratory Labor <sup>4/</sup>, which describes how Mexican labourers are brought into the United States of America by organised smugglers for work on farms in the southern States. It appears from this official report from the comments and observations of the Government of the United States of America <sup>5/</sup> and from the legal texts quoted therein that these Mexican labourers ('wet-backs') enter the United States of America illegally, i.e., against the law, that their entry is voluntary, and that their contracts of employment, though illegal, are concluded voluntarily. It also appears from the above-mentioned report that once a worker is inside the United States of America and on a farm numerous devices are employed to keep him on the job and that 'basic to all these devices is the fact that the "wet-back" is a person of legal

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<sup>1/</sup> Ibid., p. 597.

<sup>2/</sup> See p. 611 of the Report of the Committee (E/2431).

<sup>3/</sup> For summaries of Articles 16 and 30, see pp. 598 and 599 of the Report of the Committee (E/2431).

<sup>4/</sup> See pp. 600-601 of the Report of the Committee (E/2431).

<sup>5/</sup> Ibid., pp. 611-612.

disability who is in jeopardy of immediate deportation if caught'. <sup>1/</sup> The Committee noted that Article 38 of the Agreement between the Governments of the United States of America and Mexico obliges both Governments 'to take all possible measures for the elimination of such illegal traffic and entry across the international boundary' <sup>2/</sup>, and that the relevant provisions of the Agricultural Act <sup>3/</sup> implementing this Agreement make the employment of such Mexican aliens not lawfully within the country an offence. There is evidence, however, of the existence of certain practices whereby illegal Mexican immigrants are influenced to remain on their job under threat of deportation, that their conditions of service leave much to be desired, and that in some cases at least there is complicity on the part of the local authorities. <sup>3/</sup> This evidence also indicates that the United States Government itself does not countenance these practices, since it deports Mexican aliens found to be unlawfully on United States territory - such deportation of illegal immigrants being a normal and well-established rule in most legal systems. Since, moreover, the 'wet-back' can in fact always leave the farm on which he is employed, such employment cannot be viewed as forced labour within the meaning of the Committee's terms of reference."

The materials appearing in Appendix III of the Report of the Ad Hoc Committee on Forced Labour (E/2431), referred to in the statement of the Representative of the United States of America, are not reproduced here as they are only the documentation upon which the Ad Hoc Committee on Forced Labour based the conclusions quoted above.

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<sup>1/</sup> Ibid., p. 600.

<sup>2/</sup> Ibid., p. 612.

<sup>3/</sup> See p. 601 of the Report of the Committee (E/2431).

## CHAPTER V

### MATERIALS RELATING TO THE EXPLOITATION OF CHILDREN, NOTABLY UNDER THE GUISE OF ADOPTION

81. From the information supplied in accordance with Council resolutions 238 (IX), 276 (X), 388 (XIII), 475 (XV) and 525 A (XVII), the Rapporteur has extracted the following statements relating to the exploitation of children, notably under the guise of adoption:

#### BOLIVIA

82. The Government of Bolivia states in its reply to the Questionnaire (E/AC.33/10/Add.22, p. 4) that:

"Although in exceptional cases in areas far removed from the control of the authorities a few native parents, suffering from the extremes of poverty and misery, indulged in the custom of placing their children in the care of third persons on condition that they should be educated, provided with food, clothing and the other necessities of life, allowing such persons to employ the children in domestic work until they reached their majority, the political authorities, and in particular the National Juveniles and Orphans Board, have carried on a vigorous campaign against these practices and have received the assistance of the entire community."

83. In his ancillary memorandum (E/AC.33/R.14, p.88) Mr. Greenidge states that:

"In Bolivia Indian parents give up one of their children to a white family for a small monetary compensation. In some cases no legalization of the adoption takes place. The motives of the Indian parents are not always profit; there are also the desire and hope of procuring for the child a fate supposedly better than that of their own. The children lose contact with the Indian population and remain dependent on the whites to whom they have been given up. These children, when grown up, occupy the lowest social stratum, as house servants... It has been reliably estimated by a Bolivian sociologist that the number of children living in that state is not less than 200,000."

84. The ILO publication, "Indigenous Peoples", contains the following statement (p.383):



"The Indian child, besides looking after the animals and the family hut, is sometimes the object of commercial transactions. He is pledged like any piece of property and the judicial authorities even issue duly legalised papers for this purpose. Such transactions are usually made during periods of hunger, following the droughts so frequent in the Andean desert. The servants of well-to-do families are obtained in this way..."

1/  
CEYLON

85. In his ancillary memorandum (E/AC.33/R.14, pp. 87-88) Mr. Greenidge writes that:

"It is stated in Report II for the Preparatory Asiatic Regional Conference in 1947 of the ILO that 'in Ceylon there is a system resembling the mui tsai system but somewhat different from it, which has been called for want of a better term quasi-adoption. In 1935 it was investigated by a Joint Committee of the Executive Committee for Home Affairs and for Education of Government of Ceylon. It was found that the system gave rise to two classes of child domestic servants: (1) those placed in households as orphans or 'unwanted' children, where the responsibility of the natural parents is in effect replaced by that of others; (2) children in domestic service whose parents have not divested themselves of the responsibility of maintaining and bringing them up. The Committee recommended that the persons taking charge of children in No. 1 category called 'custodians' should be required to register the children and that they should be visited by a probation officer or social worker until they reach the age of 18 years in the case of girls and 14 years in the case of boys. After the age of 12 years the custodian should be required to pay a certain sum each month into a post office savings account for the benefit of the child. Legislation has been enacted to give effect to these recommendations in the form of the Adoption of Children Ordinance 1941, under which no child (that is, a person under the age of 14 years) may be adopted unless a Court of Law authorizes the adoption."

CHINA

86. The Government of China states in its reply to the Questionnaire (E/AC.33/10/Add.76) that:

1/ For the reply of Ceylon to the Questionnaire see E/AC.33/10/Add.11.

"...Cases of the enslavement of children by means of adoption occurred when Taiwan Province was under Japanese occupation... However, since the re-establishment of Chinese sovereignty over Taiwan,...cases of child servitude have greatly decreased. Last year, a Taiwan Provincial Commission for the protection of adopted daughters was established to assist adopted daughters to deal with any difficulties they may encounter in the course of their matrimonial and family relations..."

87. At the 206th meeting of the Social Committee of the Economic and Social Council, Mr. Tsao (China) made the following observations (E/AC.7/SR.206, p.16):

"Although himself Chinese, it had been long before he had discovered that that expression among the Chinese ideograms, meaning 'younger sister', had any bad connotation. Far from being a rigorous form of slavery, it was really a method by which poor parents, who had suffered a reversal of fortune resulting from natural calamity, and in circumstances of extreme hardship, entrusted some of their dependents to other persons who were in better circumstances than themselves. Although abuses were not unknown, they were by no means the general rule. In any case, the practice of mui tsai existed largely in areas outside the limits and jurisdiction of China."

88. In his ancillary memorandum (E/AC.33/R.11, pp. 3-5), Mr. Lasker stated that:

"Apart from an occasional recrudescence of slavery in some of the aboriginal societies on the borders of China, the sale of children by impecunious parents - usually in famine-stricken rural areas - is the principal source of what remains of slavery in China. There are many estimates of the total extent of this slavery, all of them - as again affirmed in a recent memorandum of the International Labour Organisation - unreliable. Only by confusing a semi-servile status within which slavery is liable to arise, with slavery itself, can an estimate of several million Chinese slaves be obtained.

"There is evidence of a correlation between famine and civil disturbance, on the one hand, with the abandonment, temporary pledging, and sale of children, on the other. This recurring tendency has been offset in recent years not only by governmental action but also by a transference of moral authority from a tradition-minded rural gentry to a middle class that thinks in more modern terms, and a resulting change in public opinion....

"The adoption of children, properly safeguarded, can be a means of rescuing and caring for large numbers whose parents cannot support them. As a widespread custom - variously named mui tsai, pei-nu, and ya-t'ou - it has met a social need. But the supply of children has been commercialized. Agents obtain them in areas struck by disaster and dispose of them, at a price many times as high as the compensation they pay to the luckless parents, in more prosperous districts - usually so distant as to disrupt all further contact between the child and its early environment. Thus a beneficent system has grown into a grave social evil. Just what proportion of adopted children is reduced to a menial slave-like status, what proportion passes to a life of prostitution, or passes through several hands as human merchandise, is not known. The sale of Chinese children abroad has been stemmed by strong measures taken in territories with large populations of overseas Chinese. In the Chinese homeland, the sale of young girls into prostitution has, under the circumstances of recent times already alluded to, remained clandestinely in full force despite the efforts of the National Government ..."

In a letter addressed to the Rapporteur, dated 26 January 1955, with reference to the Rapporteur's letter of 30 November 1954, the Director of the Office of the Chinese Delegation to the United Nations transmitted the following comment of the Chinese Government on the statement quoted above:

"Individual cases of exploitation of children were not unknown in China, but such cases could only be considered as exceptional cases. Occasional violations of law should not be regarded as the general conditions of a country. Due to the efforts of the Chinese Government to eliminate the exploitation of children and the social changes in China before the communist regime took over the mainland, cases of this kind have become very rare and cannot be regarded as slavery."

#### EL SALVADOR

89. The Government of El Salvador states in its reply to the Questionnaire (E/AC.33/10/Add.66) that:

"... The civil institution of adoption does not exist in our country except in the Political Constitution (and it was only inserted there a few months ago). Nevertheless, it is the custom in some places for the wealthy to take minors from orphanages into their homes as their own children. Such children are called hijos de casa. Sometimes they are treated like real sons, but in most cases they are treated differently and regarded rather as servants. However, this practice cannot be considered as a form of forced exploitation since the minor is not bound by any civil ties to the person who takes charge of him. He is free to leave and no steps can be taken to force him to return..."

ECUADOR 1/

90. the ILO publication, "Indigenous Peoples", contains the following statement (pp. 383-384):

"In some districts of the mountain region the practice of huasicamia ... has been supplanted by that of offering Indian children as domestics in the owner's service in exchange for their food and education. Several Ecuadorean experts on Indian questions have drawn attention to the fact that in various parts of the Sierra the children of Indian tenant labourers are obliged to work without pay, or for a very small wage, for the estate owner. One investigator has written in connection with the province of Pichincha: 'While the children in the villages and parishes go to school ... the children on the estates work from the earliest age, first helping their fathers without any pay, then working with them for a small wage, and finally - sometimes at as early an age as nine - working independently but still for a much lower wage than an adult ...'"

FRANCE  
(Cameroons)

91. The Government of France states in its reply to the questionnaire (E/AC.33/10/Add.42, p.4) that:

"The exploitation of children under the form of adoption has ... disappeared. Nevertheless, occasional, though very rare, cases of simulated adoption cloaking acts of slave trading still occur in the Cameroons (one or two cases a year). They are peculiar to the North Cameroons, among the Moslem tribes and the Bamileke country. In most cases, the pseudo-adopters are from the Emirates of North Nigeria. They adopt children of poor families, in accordance with the rules of the modified Koranic law in force in that country and give the family a sum of money in exchange. In most cases they are artisans or traders, without male issue, who have to train apprentices or assistants. The children so adopted are generally not badly off, but French law prohibits this type of agreement, on whatever grounds it may be made."

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1/ For the reply of Ecuador to the Questionnaire see E/AC.33/10/Add.30 and E/2548, Section 18. For the comments and observations of the Government of Ecuador on the extract quoted in paragraph 90, see paragraphs 53 and 54, above.

JAPAN

92. The Government of Japan states in its reply to the Questionnaire E/AC.33/10/Add.99) that:

"... Exploitation of children under the form of adoption occurred occasionally as a local practice 1/ in the rural districts, in cases where children, especially girls, were handed over to keepers of entertainment houses or circus groups. The practice, however, of adopting children for exploitative purposes has been precluded by the post-war revision of the Civil Code whereby a permit of the family court was made a requisite for the adoption of a child ... Instances of exploitation of children under the form of adoption are hardly found since 1948 ..."

93. In his ancillary memorandum (E/AC.33/R.11, p.86) Mr. Lasker states that:

"In May 1950 the Women and Minors' Bureau of the Ministry of Labour of Japan released a report on 289 cases (of alleged 'selling' of children by their parents) investigated in 1949, and 55 cases investigated in 1950. Children and young persons from 9 to 18 years were sold. 2/ Seventy per cent of them were boys. During the early period they were made to do light work, mainly agricultural, but some of these young male workers were made to do heavy work. They receive no payment but earn their keep ..." 3/

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1/ The underlined words have been substituted for the words "used to occur extensively", which appeared in the original reply as reproduced in document E/AC.33/10/Add.99, at the request of the Japanese Government contained in a letter to the Rapporteur dated 28 December 1954.

2/ In a letter addressed to the Rapporteur dated 28 December 1954, the Japanese Government suggested that this sentence would be more correct if it read: "Youths from 9 to 24 years were sold."

3/ In a letter addressed to the Rapporteur dated 28 December 1954, the Japanese Government suggested that Mr. Lasker's statement would be more correct if the following sentence were to be added: "Among the 289 youths sold, the number of girls was 145 in total, and only several girls were sold to become 'geisha' or waitresses".

NETHERLANDS  
(Antilles)

94. The Government of the Netherlands states in its reply to the questionnaire (E/AC.33/10/Add.28) that:

"... The legislation of the Antilles does not recognize adoption. Exploitation of children does not occur in the Antilles-Community, at least not as a social evil.

"What does happen is that aliens, who reside here send for children from other countries, over which they have obtained the guardianship in accordance with the laws of their own country; in these cases the danger of exploitation of children exists indeed.

"The same danger occurs as regards persons coming from Surinam, who undertake the guardianship of children from Surinam, whose parents are not able to care for the child. Such children are called 'kweekjes' (little wards) in Surinam. Besides the many bona fide guardianships of 'kweekjes' there are cases of persons who exploit these children for heavy household duties ..."

In a noted dated 9 December 1953 (E/2548, Section 37) the Netherlands Government stated that it had been informed by the Government of Surinam that their reply to the 1950 Questionnaire should be supplemented as follows:

"If in section 3, sub (e) of the questionnaire adoption is taken in the sense of legal recognition of children by persons other than the parents, such exploitation does not exist in Surinam, because - as in the Netherlands - adoption in that sense is unknown in the laws of Surinam.

"Cases are known, however, where children are taken into families and raised there with the intention - or partly with the intention - to make use of their services later. This practice has in the past given rise to complaints and upon investigation it appeared that certain of such cases might be considered as exploitation of children.

"This evil, however, is now, due to the efforts of youth police and social workers, almost non-existent."

PERU 1/

95. The ILO publication "Indigenous Peoples", contains the following statement (pp. 384-385):

"Luis F. Aguilar has stated that, in his opinion, 'The service of pongo, though common, is no more so than that of the Indian "boy" or servant ... Usually the boy is the son of one of the tenant labourers on the estate, removed in infancy from his own home and raised in the master's house where he serves until the age of 17 or 18 ... Anyone may take away and raise an Indian's children, and his protests, lamentations and entreaties will avail him nothing. But it also happens - rarely, it must be admitted - that these same fathers, under the burden of poverty, hand over their own sons in this way ...'

"A Presidential Decree dated 18 July 1946 stated that despite existing statutory prohibition, it has not been possible to abolish the exploitation of Indian children in domestic service, and that frequently Indian children living with employers in the cities are not only victims of exploitation as workers but are also deprived of their elementary rights as regards health, nutrition, clothing and culture.

"Referring to the praiseworthy spirit of the legal precepts of both the Penal Code and the decree in question, Francisco Ponce de León states that: 'It is deplorable that, in practice, they are seldom carried into effect, for children are frequently taken away from their parents or families by any and all means - even by fraud or violence - and brought to the town for employment as servants ... These acts are rarely denounced and it is very exceptional for those responsible to be punished. In the towns such servants are in great demand, especially for employment in Lima where they are known as serranitos ["children from the hills"]. They are sought, even by press advertisements, for all sorts of work. The demand, and the preference, for serranitos are due to their great meekness, their acceptance of any kind of treatment, and the fact that they receive little or nothing for their services. Their physical health and mental development usually suffer in such employment; therein lies the evil. Bad accommodation, poor food and a great deal of work have a degenerating effect.'"

96. In his ancillary memorandum (E/AC.33/R.14, p. 88) Mr. Greenidge writes that:

"The Bulletin of the Department of Native Affairs of Peru ... states (1940) that a very high percentage of the young domestic servants in the provincial cities and even in Lima are Indian children

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1/ For the reply of Peru to the Questionnaire see E/AC.33/10/Add.52.

either given by their parents or sold by unscrupulous traffickers who have taken them far from their native places. It also stated that it is not uncommon for minor officials to requisition Indian children to make presents of them to people in high places in order to gain their favour. On 2 July 1937 the Government of Peru made a law prohibiting parents to abandon or sell their children under the age of 16 years and penalizing people who received them. On 18 July 1946 another law was made regulating the acquisition of children under 16 years of age and imposing on the Department of Native Affairs the duty of supervising the welfare of children so acquired under the law and seeing that they are adequately fed and paid and that their health and education are cared for."

UNITED KINGDOM  
(Singapore, the Federation of Malaya,  
Sarawak, Brunei, and Hong Kong)

97. The Government of the United Kingdom, in its reply to the questionnaire (E/AC.33/10/Add.50), gives an account of efforts to end the practice of mui tsai, of which it states that "traces still exist in Singapore, the Federation of Malaya, Sarawak, Brunei and Hong Kong", and supplies the following details:

Singapore: "... Immigration loopholes presented one of the major causes for the flow of mui tsai into the Colony. Today the demand for mui tsai is still very great, but the (immigration) measures have been so rigorously enforced that the traffickers are being discouraged from carrying on this trade ... It has been found that it is not unusual for brothelkeepers to have mui tsai in their custody, and these are trained to earn their living as prostitutes when they attain puberty ... There is evidence that unscrupulous persons make use of adoption as a means of procuring female children for undesirable purposes. A common example of this is the purchase by a prostitute of one or more young girls, known locally as 'walking sticks' who are directed into prostitution as soon as they reach puberty. The prostitute will then proceed to live on the immoral earnings of these so-called adopted daughters, when her own attractions have faded. Such girls are held in a form of bondage, and they cannot escape from this except by payment of a cash indemnity. Arrangements for such adoptions are normally made by middle-aged females who act as brokers. Most of the victims are procured from very poor families in rural areas remote from the towns in which they are intended to live and subsequently work."

Sarawak and Brunei: "Although, in Sarawak and Brunei, slavery as such does not exist, mention may be made of the following practices relating to the transference of children: ...



"1. adoption of orphaned children, usually by their relatives. Both male and female children are adopted in this manner.

"2. 'purchase' of young children, normally of girls only. If the parents have too large a family or if the child is illegitimate, the parents often receive a small sum of money which is regarded not so much as a saleprice but as compensation for the expense of rearing the child, plus 'heart-balm'. If the 'adopted' child is a girl and there is a boychild of suitable age in the family, they may become provisionally engaged.

"3. mui tsai: In Sarawak a Protector and a number of Assistant Protectors of women and girls have been appointed. As the mui tsai system is still firmly ingrained in Chinese custom, complaints are rare except in cases of ill-treatment, and offenses difficult to detect."

Hong Kong: "... the results of the campaign against the mui tsai system have had on the whole a reasonable measure of success. The checking of through traffic in women or children is very much more difficult without the fullest co-operation from the authorities at the ports of embarkation and disembarkation. Such co-operation has been developed very satisfactorily with the ports of embarkation but in present circumstances effective liaison with the authorities in China has not been achieved."

UNITED KINGDOM <sup>1/</sup>  
(Nigeria)

98. The World Union of Catholic Women's Organizations, a non-governmental organization in Category B consultative status, states (E/2548, Section 55, pp. 73-74):

"(In Nigeria) people 'trade' in children. The procedure is this: An agent goes to a village. He buys drinks for the chiefs, etc. He says he wants to arrange marriages. Young girls are produced, usually from 7 to 9 years of age. Money is paid down and the girls taken. Some return to their homes but many do not. The same procedure applies to the hiring of boys ... The parents usually agree to this, being driven to it by poverty. The slave trade in children does exist, especially in the kidnapping of children and selling them to people who need agricultural help, in distant places. This is severely punished by law. Nevertheless the law is frequently broken ... In some parts of Nigeria, people give young children to others in settlement of a debt ... This is a frequent practice here but it too is severely punished by law if it can be proved. This is often not possible because of lack of witnesses."

<sup>1/</sup> For the reply of the United Kingdom to the Questionnaire see E/AC.33/10/Add.50, page 6.

In a note addressed to the Rapporteur, dated 29 December 1954, with reference to his letter of 30 November 1954, the Secretary of State of the United Kingdom transmitted the following observations of the United Kingdom Government on the statement quoted above:

"... The extract ... refers to three practices: (i) the 'trade' in children, which is akin to pawning, in the form of child betrothal; (ii) the slave trade for children also involving kidnapping, and (iii) the gift of children in settlement of debt.

"So far as (i) is concerned, the question is dealt with in /para. 78 of this report/, where one of the replies of the Government of the United Kingdom to the Questionnaire (E/AC.33/10/Add.50) is quoted.

"So far as (ii) and (iii) are concerned, I would draw attention to the fact that, as the World Union of Catholic Women's Organisations recognizes, such practices are contrary to the law and are severely punished. Moreover, as is stated in /para. 78 of this report/ in relation to debt bondage, 'African opinion is now alive to the immorality of this practice. This factor, coupled with continual administrative vigilance, has brought about a notable decline in pawning'."

#### VIET NAM

99. The Government of Viet-Nam states in its reply to the Questionnaire (E/AC.33/10/Add.94) that:

"... The Inspectorate of Labour, the Police, and the Vice Squad have ... frequently discovered offences of the following kinds:

"(a) improper resort by certain families to adoption in order to recruit young domestic servants without pay;

"(b) fraudulent practices by women owners of brothels who turn young village girls who are refugees or are seeking work in towns, into prostitutes;

"(c) kidnapping of children by violence or seduction, for the purpose of selling them within the country or abroad.

"The offenders have, of course, always been prosecuted and given exemplary sentences as soon as the offences were proven."

## CHAPTER VI

### MATERIALS RELATING TO THE "PURCHASE" OF WIVES AND THE "INHERITANCE" OF WIDOWS

100. From the information supplied in accordance with Council resolutions 238 (IX), 276 (X), 388 (XIII), 475 (XV), and 525 A (XVII), the Rapporteur has extracted the following statements relating to the "purchase" of wives and the "inheritance" of widows by the heir of the deceased husband, involving subjection of a woman to a man not of her choice.<sup>1/</sup>

#### AFGHANISTAN

101. The Government of Afghanistan states in its reply to the Questionnaire (E/AC.33/10/Add.72) that:

"... The inheritance of a widow by the family of her husband is forbidden under the shariat and the law of the State. Instances of this practice may yet be found in certain parts of the country which have not yet fully benefited from education. Even in such instances, however, a woman who does not wish to marry one of her husband's family may certainly appear in court and claim her right to freedom."

#### AUSTRALIA<sup>2/</sup> (New Guinea)

102. In his ancillary memorandum (E/AC.33/R.11, p. 52) Mr. Lasker states that:

"In the eastern part of New Guinea,... the payment of bride-price, now customary, has taken the place of an earlier custom of exchanging brides between families, through engagements between children at a very early age.... A part of the bride-price is consumed at a feast and benefits the bride's parents only when, because of poverty, the young men must substitute a fairly lengthy period of labour services for payments in kind or cash..."

<sup>1/</sup> The Rapporteur would draw the Council's attention to the fact that it has already examined certain aspects of this question when preparing resolution 547 H (XVIII), on "Customs, Ancient Laws and Practices Affecting the Human Dignity of Women," and that the General Assembly also adopted resolution 843 (IX) on the same subject.

<sup>2/</sup> For the reply of Australia to the Questionnaire, see E/AC.33/10/Add.95.

In a letter addressed to the Rapporteur, dated 4 January 1955, with reference to his letter of 30 November 1954, the Permanent Representative of Australia to the United Nations transmitted the following comments of the Australian Government on the statement quoted above:

"... The Australian Government considers that the material submitted by Mr. Bruno Lasker in his memorandum in document E/AC.33/R.11 might create a false impression regarding the questions of bride price and marriage customs in that territory. Accordingly the Australian Government suggests that the following statement, which has equal application both to the Trust Territory of New Guinea and the Territory of Papua, is a more accurate description of the position:

'Bride price, which frequently involves gift exchange giving recognition to a new alliance between kinship groups of the parties concerned, still exists in most of the Territory's communities. The value of gifts exchanged between two kinship groups is approximately equal and, in such cases, the transactions cannot be taken as involving the purchase of wives.

'Betrothal in a wide variety of forms, each having its own significance, exists among the native communities. In some, the preliminary arrangement which sets up the prospective spouses is made between the couples themselves, but the most common case is where the preliminary arrangement is made by other persons. Consent of either prospective spouse is or is not necessary according to local custom, and every marriage between natives which is in accordance with the custom prevailing in the tribe or group of natives to which the parties of the marriage belong is a valid marriage.

'In some areas, particularly those in which Native Village Councils are operating, the indigenous people themselves have been considering and dealing with the regulation and limitation of marriage gift transactions. The matter is being dealt with with some caution, as it has been found that rapid change in customary marriage arrangements can have considerable effect in damaging the stability of marriage, with consequent undesirable effects on family life.'"

BELGIUM<sup>1/</sup>  
("Territories in Africa")

103. The Government of Belgium states in its reply to the Questionnaire (E/2548, p. 13) that:

"From the viewpoint of the Bantus, the payment of a bride-price and the inheritance of widows by the heir of the deceased husband (levirate), for example, cannot be regarded either as forms of servitude arising out of a contract or as 'sales'. The latter custom is based on a concept of the family which differs from that of the West. In almost every case, its purpose is to provide for the maintenance of older women, the levirate in any other form having practically disappeared."

In a letter addressed to the Rapporteur, dated 27 January 1955, with reference to his letter of 30 November 1954, the Permanent Representative of Belgium to the United Nations transmitted the following supplementary information:

"... The practice of levirate has everywhere fallen into disuse; the few instances which are still reported should no longer be regarded as forms of servitude, since they concern widows who submit to it of their own free will and who are all advanced in years. It is only in order to ensure their maintenance in old age that they ask for the application of this system."

"The Women's Social Welfare organization (Assistance sociale féminine) is very active in the Congo; it has done much to rid women of certain inferiority complexes. The stage has been reached at which the various forms of enslavement that formerly existed are obsolete and at which the few vestiges that may survive are explained by the traditionalist spirit of those to whom they apply and the desire to obtain the advantage of the social guarantees and mutual help which were ensured by the former customs."

CHINA<sup>2/</sup>

104. In his ancillary memorandum (E/AC.33/R.11, pp. 4 and 49), Mr. Lasker states that:

"The sale of adult women - and their self-sale to escape starvation - also has tended to increase in times of exceptionally widespread indigence, in spite of administrative action and of the long-time trend of public opinion previously referred to. In the enslavement of women three phases may be distinguished:

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<sup>1/</sup> See also para.18 above, for information relating to the alleged purchase of wives by the "Bakula" in the Belgian Congo.

<sup>2/</sup> For the reply of China to the Questionnaire, see E/AC.33/10/Add. 64 and 76, and E/2548, Section 11.

"(1) purchase for conjugal purposes, usually as concubines or secondary wives, which as a rule is a direct transaction and represents an extreme form of a customary compensation of the bride's family by that of the bridegroom - the so-called bride price which, varying from symbollic gifts to substantial payments, is a social custom the world over;

"(2) purchase for purposes of prostitution, which usually takes place through intermediaries, both men and women; and

"(3) purchase for purposes of productive labour.

"The last-named form is often difficult to distinguish from an advance payment made to the woman's husband or guardian on account of earnings under a contract of employment. Such a transaction becomes slavery when the compensation is so high, and the likelihood of liquidation by the woman's earnings so remote, that the employer be said to have complete power of disposal over her person even though, of course, he has no legal right of ownership.

"In China... marriages are still to a large extent arranged without the woman's consent, usually through an intermediary. Monetary considerations often dominate such negotiations to such an extent that the transaction differs little from a trade. The marriage is... still so low, especially in rural districts where there are no wage-earning opportunities for girls, that the bride is for years subjected to the dictation of older persons in her husband's family, all of whom have specific rights to her actual and ritual services.

"The situation has greatly improved in recent times with the disintegration of joint households, with increased vocational opportunities for women, with better education, and not least with fairly progressive legislative provisions concerning the property rights of married women.

"The sale of women, though of course illegal and rare in China today, still can occur in rural China wherever the general respect for women as persons is as yet low and where, lacking adequate schools for girls, public opinion may be unsympathetic with - or even unaware of - modern law and trends."

In a letter addressed to the Rapporteur, dated 26 January 1955, with reference to his letter of 30 November 1954, the Director of the Office of the Chinese Delegation to the United Nations transmitted the following observations of the Chinese Government:

"The purchase of concubines had been an evil practice in China until about fifty years ago. Since then, such practice has been not only denounced by public opinion but also forbidden by law. In China today, both on the mainland and in Taiwan, concubines or second wives can seldom be found

"As regards the inheritance of widows, neither in the Chinese history, nor in China today can cases of this kind be found. It is a mistake to list China under the general heading: "Inheritance of Widows".

COLOMBIA<sup>1/</sup>

105. For statement concerning the sale of girls and young women, see paragraph 19 above.

FRANCE<sup>2/</sup>

106. The Government of France states in its reply to the Questionnaire (E/AC.33/10/Add.42, p. 4) that:

"The purchase of wives and inheritance of widows by the heir of the deceased husband, involving involuntary subjection of a woman to a man not of her choice, do not exist.

"The only practices existing in the territories of Black Africa are the practice of the dowry and the taking over of the widow by the heir of the deceased. According to custom, the wife is a property, on the same footing as the other property of the group into which she has entered through marriage. It is for this reason that adultery, which is regarded as theft, is always heavily punished. The wife has no property of her own apart from her hut or personal belongings. She does not inherit property; she is inherited. Yet her status is not one of absolute subjection to the husband. Custom, regarding the wife as the essential element of the family, aims principally, by restricting her freedom to dispose of herself, at ensuring the stability of the family group. The customary practices of dowry and the inheritance of widows are to be explained in the light of these ideas.

"The term 'purchase of wives' is frequently wrongly employed to denote the practice of dowries. The dowry is not in reality the price of a wife and in no way corresponds to a contract of sale. It can be traced back to the idea of compensation: the husband's group owes the wife's family that part of the collective work which was formerly performed by the wife and which it acquires by virtue of the marriage. This practice, which is connected with the system of polygamy, is based on the idea of the labour value represented by the wife and children.

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<sup>1/</sup> For the reply of Colombia to the Questionnaire, see E/AC.33/10/Add.37 and E/2548, Section 12.

<sup>2/</sup> See footnote <sup>1/</sup>, paragraph 36 above.

"In many cases this original conception of the dowry has accordingly come to be regarded in a new light by modern Africans: it might be said that the dowry is a lump sum paid as compensation to the parents for bringing up the girl, educating her properly and preserving her purity.

"To describe the dowry as a purchase would therefore be an arbitrary and dangerous simplification. Even though the practice has become more and more a commercial transaction in recent years, it is still true:

" - that the dowry is, under customary law, sacramental in character and an essential condition of the validity of the marriage;

" - that the consent of the woman is required; without it the marriage is null and void in the eyes of the law;

" - that the wife has extensive rights, including the right to apply for divorce at any time. In this case, the wife must restore the dowry.

"The inheritance of widows and of children, which seems to imply a deprivation of freedom, is in fact a welfare institution requiring the husband's heir to assume responsibility for the maintenance of the members of the family.

"The levirate marriage has lost a good deal of its biblical significance of forced marriage which was formerly justified by the necessity of assuring male posterity for the deceased. According to African custom, it is no longer a matter of the subjection of a woman to a man not of her choice but of the distribution of the financial burden resulting from the maintenance of the widow.

"It is nowadays generally admitted by custom that widows may remarry as they wish, provided that the new husband pays the dowry to the heir of the deceased. The best proof of this is that censuses show a very small number of levirate marriages with young women.

"In addition, local decrees and enactments relating to personal status and marriage give widows the right to recover their freedom by application to the court of the first degree in their place of residence."



107. In her ancillary memorandum (E/AC.33/R.13, p. 8), Madame Vialle states that:

"Many illustrations have been given by Sister Marie Andrée in various reports and, in particular, in her book entitled La loi d'airain du mariage au Cameroun (The Brazen Law of Marriage in the Cameroons). These forms of servitude are found not only in French West Africa,... and the Cameroons, but also ... in French Equatorial Africa. With regard to Gabon, for example, Mr. Vallandier says:

"Forms of servitude are revealed chiefly in the status of women. Woman is a chattel and is classed as merchandise. She forms part of the property of the group into which she is introduced by marriage. A woman has no personal property other than her hut or every-day belongings. She has no right of inheritance. She is inherited ....

"The dowry has lost its original symbolic meaning and has become a source of profit for the fathers, brothers or relatives of women. Husbands are sometimes known to drive their wives to prostitution for their own profit. The practice of competitive bidding for wives handicaps African social development in many ways. Rich men can obviously acquire several wives, thus condemning the less well-to-do and often the youngest men to celibacy and, in many cases, condemning women to prostitution."

#### INDIA

108. The Government of India states in its reply to the Questionnaire (E/2548, pp. 51-52) that:

"Purchase of wives and inheritance of widows by the heir of the deceased husband or by other members of the brotherhood has been practised in some form or the other in the Simla District and in some parts of Kangra District, but in all such transfers the woman is always a willing party and it is very seldom that compulsion or force is exercised on the woman to marry a man not of her own choice. This practice is also gradually decreasing with the spread of education and the improvement in the economic conditions of the peasantry in the hilly districts ....

"Cases of sale of women from other provinces to persons in the Punjab have occasionally come to notice as there is paucity of women in the State and where such sale has been occasioned by fraud or where the woman is an unwilling party, action is generally taken by the police under the ordinary criminal law of the State."

109. In his ancillary memorandum (E/AC.33/R.11, p. 49) Mr. Lasker states that:<sup>1/</sup>

"In India, the payment of a high bride-price sometimes is the cause of a two or even three-fold drag upon personal freedom. The woman, given in marriage at an early age and without her consent, enters the husband's family as a servant rather than as an equal; the husband on his part becomes the prey of a money-lender without whose assistance he cannot secure a suitable wife; and - not least important, though falling outside the frame of the present inquiry - both of the young people, because of the large financial sacrifices made for their marriage by their families, must for the greater part of their adult life accept the dictation of their elders in all matters of importance.

"The woman's family is not necessarily better off for the receipt of the bride-price. As a rule, this is discounted in advance, being mortgaged against debts incurred by members of the family. Or the price may be needed to pay for the marriage of one of its own sons. The only people who consistently benefit from the custom are the creditor; the moneylender who can convert the debt owed to him into a lien on the crop, or even on the land itself; the landlord who, by advancing a tenant the money for his marriage, can bind him to inequitable and servile terms of tenure; the employer of labour who, with simulated generosity, acquires for an advance of wages in payment of the bride-price a lifelong bond servant.

"Many recent reports, studied in connexion with the present inquiry, show the close relation in India between low age at marriage, bride-price, low status of women, and a general state of servility related to ethnic origin or caste. None in itself is a cause or a state of involuntary servitude; but together they provide the soil in which that evil plant renews its life from generation to generation."

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<sup>1/</sup> See footnote to paragraph 72 above.

JAPAN

110. The Government of Japan states in its reply to the Questionnaire (E/AC.33/10/Add.99) that:<sup>1/</sup>

"Purchase of wives does not exist legally or customarily, but when a man wanted to marry a public prostitute or geisha-girl, it was customary to pay her debt or ransom to her master who was usually her creditor. This was something like the purchase of wives, but in such a case the woman's will was rarely ignored, and since the system of licensed prostitution was abolished after the end of the war, this practice of paying a ransom has hardly been found.

"Inheritance of a widow by the heir of her deceased husband against her will does not exist under the present laws which guarantee fundamental human rights and freedom of marriage. Marriage of a widow to the elder or younger brother or her deceased husband is not rare, especially in farm villages. In such cases, however, it is seldom that the widow's will is entirely ignored."

NETHERLANDS  
(New Guinea)

111. The Government of the Netherlands states in its reply to the Questionnaire (E/AC.33/10/Add.28) that:

"Inheritance of widows occurs in some districts but is always an institution of adat-law for the protection and the care of the widow left behind and is as such of social value in the primitive community.

"Generally the eldest brother of the deceased husband is the proper person to inherit his late brother's wife. This inheritance has the result that if desired the widow rather has rights (namely protection and care) than conjugal obligations with regard to her new husband."

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<sup>1/</sup> The underlined words have been substituted for words which appeared in the reply as reproduced in document E/AC.33/10/Add.99, at the request of the Japanese Government contained in a letter to the Rapporteur dated 28 December 1954.

In a letter addressed to the Rapporteur, dated 10 January 1955, with reference to his letter of 30 November 1954, the Permanent Representative of the Netherlands to the United Nations transmitted the following comment of the Netherlands Government on the statement quoted above:

"The remarks ... concerning 'inheritance' of widows would seem to be irrelevant to the subject under study. This practice, which is common in many regions in South East Asia, far from bringing the women concerned under slavery or serfdom, is a means of protection of widows in the primitive community."

UNION OF SOUTH AFRICA

112. The Government of the Union of South Africa states in its reply to the Questionnaire (E/AC.33/10/Add.45) that:

"Under Bantu custom widows become the responsibility of the heir. If they are still capable of having children, they are in terms of the custom of levirate allotted to the brothers of the deceased. The law, however, forbids the compulsory application of the levirate and a widow need, therefore, not consort with a man unless she so desires."

UNITED KINGDOM  
(Anglo-Egyptian Sudan)

113. The Government of the United Kingdom states in its reply to the Questionnaire (E/AC.33/10/Add.96) that:

"A certain amount of (purchase of wives and inheritance of widows by the heir of the deceased husband involving involuntary subjection of a woman to a man not of her choice) is inevitable in a country where by tradition women are regarded as inferior to men. In the Southern Sudan no such subjection occurs."

UNITED KINGDOM  
(Southern Rhodesia)

114. The Government of Southern Rhodesia states in its reply to the Questionnaire<sup>1/</sup> (E/AC.33/10/Add.1) that:

"The matrimonial affairs of indigenous native peoples are dealt with in the Native Marriage Act, Chapter 76, with regard to the inheritance of widows, the pledging of children in marriage, and forced marriages. These are all customs of the African tribes resident which date from pre-European occupation and are found in isolated cases in the more remote portions of the country. When cases of this nature do occasionally arise, they are very severely dealt with by the courts, and become less frequent each year. The progress and education of the African woman makes such offences increasingly rare and there is no doubt a very short time will elapse before they become quite unknown. The African woman is becoming very conscious of her rights in these matters with the increase in the number of Kraal schools in outside districts, and the sphere of influence of these institutions increases vigorously each year. These women no longer seek the aid of their male relatives before making their complaint, and have easy access to travelling officials and missionaries in the districts in which they live as well as entry to the official offices of European police and administrative staff."

UNITED KINGDOM  
(The Persian Gulf States)

115. The Government of the United Kingdom states in its reply to the Questionnaire (E/AC.33/10/Add.98) that:

"The purchase of wives and inheritance of widows continue to some extent to be practices in the Persian Gulf States in other countries where by tradition women are considered to be inferior to men ...."

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<sup>1/</sup> Transmitted by the Government of the United Kingdom.



ANNEX

INFORMATION SUPPLIED IN ACCORDANCE WITH COUNCIL  
RESOLUTIONS 238(IX), 276(X), 388(XIII), 475(XV)  
AND 525 A(XVII)

(NOTE: As stated in paragraph 2 of this report, the Rapporteur considers all of the parts of the Annex listed below as constituting an integral part of the report. They are however not reproduced in their entirety, either in the body of the report or in this Annex, in view of resolution 593(VI) of the General Assembly, on control and limitation of documentation.)

Part

A. Materials received from Governments

Member States

- |                        |   |
|------------------------|---|
| 1. Afghanistan         | E/AC.33/10/Add. 72, and E/2548, Section 1 B (a)               |
| 2. Argentina           | E/AC.33/10/Add. 25 and 97, and E/2548/Add.1                   |
| 3. Australia           | E/AC.33/10/Add. 35 and Corr.1, 43 and 95                      |
| 4. Belgium             | E/AC.33/10/Add. 27, 31 and 93, and<br>E/2548, Section 4 B (a) |
| 5. Bolivia             | E/AC.33/10/Add. 22 and Corr.1                                 |
| 6. Brazil              | E/AC.33/10/Add. 6   |
| 7. Burma               | E/AC.33/10/Add. 48 and 53, and E/2548, Section 7 B (a)        |
| 8. Byelorussian SSR    | E/AC.33/10/Add. 56  |
| 9. Canada              | E/AC.33/10/Add. 33 and 77, and E/2548, Section 9 B (a)        |
| 10. Chile              | E/AC.33/10/Add. 60 and 85, and E/2548, Section 10 B (a)       |
| 11. China              | E/AC.33/10/Add. 64 and 76, and E/2548, Section 11 B (a)       |
| 12. Colombia           | E/AC.33/10/Add. 37, and E/2548, Section 12 B (a)              |
| 13. Costa Rica         | E/AC.33/10/Add. 39  |
| 14. Cuba               | E/2548, Section 14 B (a)                                      |
| 15. Czechoslovakia     | E/AC.33/10/Add. 84, and E/2548, Section 15 B (a)              |
| 16. Denmark            | E/AC.33/10/Add. 8 and 75, and E/2548, Section 16 B (a)        |
| 17. Dominican Republic | E/AC.33/10/Add. 65  |

Part

A. Materials received from Governments (continued)

Member States (continued)

- |                 |   |
|-----------------|---|
| 18. Ecuador     | E/AC.33/10/Add. 30, and E/2548, Section 18 B (a)                  |
| 19. Egypt       | E/AC.33/10/Add. 18  |
| 20. El Salvador | E/AC.33/10/Add. 66  |
| 21. Ethiopia    | E/AC.33/10/Add. 58  |
| 22. France      | E/AC.33/10/Add. 42 and Corr.1, 69 and 81                          |
| 23. Greece      | E/AC.33/10/Add. 59, and E/2548, Section 23 B (a)                  |
| 24. Guatemala   | E/AC.33/10/Add. 68  |
| 25. Haiti       | E/2548, Section 25 B (a)  |
| 26. Honduras    | E/AC.33/10/Add. 13, and E/2548, Section 26 B (a)                  |
| 27. Iceland     | E/AC.33/10/Add. 2, and E/2548, Section 27 B (a)                   |
| 28. India       | E/AC.33/10/Add. 70, E/2548, Section 28 B (a)<br>and E/2548/Add. 6 |
| 29. Indonesia   | E/AC.33/10/Add. 57 and 89   |
| 30. Iran        | E/AC.33/10/Add. 61, and E/2548, Section 30 B (a)                  |
| 31. Iraq        | E/AC.33/10/Add. 62, and E/2548, Section 31 B (a)                  |
| 32. Israel      | E/AC.33/10/Add. 41, and E/2548, Section 32 B (a)                  |
| 33. Lebanon     | E/AC.33/10/Add. 12  |
| 34. Luxembourg  | E/AC.33/10/Add. 3   |
| 35. Mexico      | E/AC.33/10/Add. 54  |
| 36. Netherlands | E/AC.33/10/Add. 28 and 82, and E/2548, Section 37 B (             |
| 37. New Zealand | E/AC.33/10/Add. 26 and 91, and E/2548, Section 38 B (             |
| 38. Norway      | E/AC.33/10/Add. 7   |
| 39. Pakistan    | E/AC.33/10/Add. 44 and 74, and E/2548, Section 41 B (             |
| 40. Panama      | E/AC.33/10/Add. 63  |
| 41. Peru        | E/AC.33/10/Add. 52  |
| 42. Philippines | E/AC.33/10/Add. 67  |
| 43. Poland      | E/2548/Add. 5   |
| 44. Sweden      | E/AC.33/10/Add. 32, and E/2548, Section 48 B (a)                  |
| 45. Syria       | E/AC.33/10/Add. 55  |
| 46. Thailand    | E/AC.33/10/Add. 21  |
| 47. Turkey      | E/AC.33/10/Add. 49, and E/2548/Add. 2                             |



Part

A. Materials received from Governments (continued)

Member States (continued)

- 48. Union of South Africa E/AC.33/10/Add. 45 and 92
- 49. Union of Soviet Socialist Republics E/AC.33/10/Add. 51
- 50. United Kingdom E/AC.33/10/Add. 50, 96 and 98, and E/2548, Section 55 B (a)
- 51. United States of America E/AC.33/10/Add. 55 and 79, and E/2548, Section 56 B (a)
- 52. Uruguay E/AC.33/10/Add. 19 and 87, and E/2548, Section 57 B (a)
- 53. Venezuela E/AC.33/10/Add. 36, and E/2548, Section 58 B (a)
- 54. Yemen E/2548/Add. 4
- 55. Yugoslavia E/AC.33/10/Add. 38 and 90, and E/2548, Section 60 B (a)

Non-Member States

- 56. Austria E/AC.33/10/Add. 29, and E/2548, Section 62 B (a)
- 57. Bulgaria E/AC.33/10/Add. 24
- 58. Cambodia E/AC.33/10/Add. 88, and E/2548, Section 65 B (a)
- 59. Ceylon E/AC.33/10/Add. 11
- 60. Finland E/AC.33/10/Add. 10 and 78, and E/2548, Section 67 B (a)
- 61. Federal Republic of Germany E/AC.33/10/Add. 20, and E/2548, Section 68 B (a)
- 62. Hashemite Kingdom of the Jordan E/AC.33/10/Add. 34
- 63. Hungary E/AC.33/10/Add. 10
- 64. Ireland E/AC.33/10/Add. 47, and E/2548, Section 71 B (a)
- 65. Italy E/AC.33/10/Add. 17 and 86
- 66. Japan E/AC.33/10/Add. 40 and 99, and E/2548, Section 73 B (a)
- 67. Laos E/AC.33/10/Add. 73
- 68. Libya E/AC.33/10/Add. 83

Part

A. Materials received from Governments (continued)

Non-Member States

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|-------------------|--|
| 69. Liechtenstein | E/AC.33/10/Add. 14, and E/2548/Add. 3            |
| 70. Monaco        | E/AC.33/10/Add. 4, and E/2548, Section 78 B (a)  |
| 71. Nepal         | E/AC.33/10/Add. 9 and 80                         |
| 72. Switzerland   | E/AC.33/10/Add. 23, and E/2548, Section 87 B (a) |
| 73. Viet Nam      | E/AC.33/10/Add. 94                               |

B. Records of the Economic and Social Council

Ninth Session

74. Summary records of the Economic and Social Council plenary meetings 298 (pp. 194-206), 300 (pp. 220-234), and 301 (pp. 235-244).

Tenth Session

75. Summary records of the Economic and Social Council plenary meetings 362 (p. 129), 372 (p. 212), 373 (pp. 215-218), and 374 (pp. 219-220).

Thirteenth Session

76. Summary records of the Social Committee meetings 205-208 (E/AC.7/SR.205-208) and of plenary meeting 544 (pp. 593-599).

Fifteenth Session

77. Summary records of the Social Committee meetings 228-233 (E/AC.7/SR.228-233) and of plenary meeting 702 (p. 186).
78. Report of the Council Committee of Non-Governmental Organizations (E/2391).
79. Statements in the Committee on Non-Governmental Organizations meetings 125 (International Council of Women), 126 (Anti-Slavery Society) (E/C.2/SR.125 and 126); and communication by the Anti-Slavery Society (E/C.2/344).

Part

B. Records of the Economic and Social Council (continued)

Seventeenth Session

80. Summary records of the Social Committee meetings 274-276 (E/AC.7/SR.274-276), and of the Council plenary meetings 757 and 789 (E/SR.757 and 789).
81. Statement in the Committee on Non-Governmental Organizations meeting 142 (Anti-Slavery Society) (E/C.2/SR.142).

C. Records of the Ad Hoc Committee on Slavery

First Session

82. Interim Report submitted to the tenth session of the Economic and Social Council (E/1617).
83. Report of the first session of the Ad Hoc Committee (E/1660).

Second Session

84. Report of the second session of the Ad Hoc Committee (E/1988).
85. Ancillary memorandum on Slavery and Other Forms of Involuntary Servitude in Asia, Oceania, and Australasia, submitted by Mr. Bruno Lasker (restricted document E/AC.33/R.11).
86. Ancillary memorandum on Slavery and Other Forms of Servitude in American Countries, submitted by Moises Poblete Troncoso (restricted document E/AC.33/R.12).
87. Ancillary memorandum on Slavery in African Territories, submitted by Mrs. Jane Vialle (restricted document E/AC.33/R.13).
88. Ancillary memorandum ("Minority Report") submitted by Mr. C.W.W. Greenidge (restricted document E/AC.33/R.14).

Part

D. Reports and Memoranda by the Secretary-General

- 89. Report on Slavery and Slave Trade and Other Forms of Servitude (E/2357).
- 90. Supplementary report on Slavery (E/2548, and Adds. 1-6).

E. Materials supplied by the International Labour Organisation

- 91. "Indigenous Peoples." ILO Studies and Reports, New Series, No. 35; Geneva, 1953. 628 pages.
- 92. "Industry and Labour." ILO. publication; November 1953 issue.

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