Sixth Item on the Agenda:

FORCED LABOUR
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INTRODUCTION

At its 127th Session (Rome, November 1954), the Governing Body of the International Labour Office decided to place the question of forced labour on the agenda of the 39th Session of the International Labour Conference (June 1956).

In accordance with article 39 of the Standing Orders of the Conference, concerning questions governed by the double-discussion procedure, the Office prepared a preliminary report on this subject together with a questionnaire.\(^1\)

This report and questionnaire were communicated to governments of member States, which were invited to send their replies to reach the Office by 6 October 1955. At the time of drafting the present report replies have been received from the governments of the following 44 member States: Afghanistan, Australia, Austria, Burma, Canada, Ceylon, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Egypt, Finland, Federal Republic of Germany, Honduras, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Japan, Lebanon\(^2\), Mexico, Netherlands, New Zealand, Norway, Pakistan, Peru, Philippines, Portugal, Sweden, Switzerland, Syria, Thailand, Turkey, Union of South Africa, U.S.S.R., United Kingdom, Uruguay and Yugoslavia. The Government of the Netherlands also transmitted the replies of the Governments of the Netherlands Antilles and Surinam, which are reproduced as an appendix.

The present report is divided into two chapters. The first reproduces the substance of the replies of governments; the second is designed to present, with explanatory comments, the Conclusions proposed in the light of these replies.

If the Conference decides that it is appropriate to adopt an international instrument, the Conclusions adopted at the 39th Session will serve as the basis for the preparation by the Office of a proposed text which will be submitted to governments, in order to permit the Conference to take a definite decision at the next session.


\(^2\) The Government of Lebanon gave no replies to questions 11 to 18 inclusive, and it appears as if one page of its reply had inadvertently been omitted. The missing page had not been received at the time of going to press.
CHAPTER I

REPLIES FROM GOVERNMENTS

In the present chapter are reproduced the questions to which governments were asked to reply and the substance of the replies received. Except in cases where governments replied to several questions jointly, the replies have been grouped under each question separately. ¹

Thirteen governments made general observations which are reproduced below.

General Observations

AFGHANISTAN

We regret that at the present time we are not in a position to reply separately to each item of the questionnaire.

Our delegate will receive the necessary instructions to express our views at the time of the Conference. However, it should be stated that the Constitution of Afghanistan (article 18) makes the following provision regarding the principle of forced labour in this country: “Levies of money and forced labour are prohibited, except during time of war.”

In principle we are of the opinion that any work or service exacted from people against their will should not be permitted. The adoption of an international instrument ensuring application of this principle is most desirable.

We hope that this will offer an inclusive answer to the questions raised.

CANADA

Canada is a federal State. In the event that a Convention were adopted dealing with the forced labour practices which are excluded from the scope of the Forced Labour Convention, 1930, by the terms of Article 2, paragraph 2 thereof, the subject matter of such Convention in so far as it related to certain of these forced labour practices might well be matters which would be, in part at least, within the legislative competence of the provinces of Canada. Should this prove to be the case, ratification of the Convention would not be possible.

In the view of the Canadian Government there are serious doubts as to the practicability or wisdom of endeavouring to incorporate in an instrument framed as a Convention, of which widespread ratification is desired, regulations or conditions relating to work or service exacted or performed in circumstances of emergency which include the emergencies of war requiring the mobilisation of essential manpower, even though the conditions proposed might in themselves be regarded as acceptable in principle for application. Some of the conditions as proposed in Part V

¹ When a government has dealt with several questions in a single reply, the latter is reproduced under the first of these questions. For the others it is simply stated that the government concerned has replied to several questions at once.
of the questionnaire present difficulties and will require further study before an opinion could be expressed thereon.

The Canadian Government considers that the major objective in framing a new Convention on forced labour at this time should be to provide therein for the prohibition of forced or compulsory labour practices of the nature and for the purposes set forth in question 7, clauses (a) to (c).

To go beyond this by attempting to cover in the Convention forced labour practices excluded from the Forced Labour Convention, 1930, by Article 2, paragraph 2 thereof, might well detract from the main objective.

Ceylon

The proposed instrument is intended to deal in detail with the practices excluded from Convention No. 29. This Convention itself will come up for review in 1956.

This Government agrees that the types of abuses mentioned by the Ad Hoc Committee should be prohibited. The question whether the new Convention should be in the detailed form envisaged in the questionnaire or whether the details should be left over for consideration with the review of Convention No. 29 deserves careful consideration.

India

India has recently ratified the Forced Labour Convention, 1930 (No. 29). All the offending laws and regulations are being accordingly repealed or amended suitably.

Article 23 of the Constitution of India provides that “traffic in human beings and begar and other similar forms of forced labour shall be prohibited, and any contravention of this provision shall be an offence punishable in accordance with law”. The State, however, may impose “compulsory service for public purposes” but “in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them”.

The Government of India is in general agreement with the proposed regulations.

Federal Republic of Germany

As is explained in Report VI (1) prepared for the 39th Session of the International Labour Conference (1956), the Ad Hoc Committee on Forced Labour set up by the International Labour Office found that systems of forced labour employed for political or economic purposes exist in a number of countries and that, while these systems appear in part to be covered by the escape clauses contained in Article 2, paragraph 2, of the Forced Labour Convention, 1930 (No. 29) concerning forced or compulsory labour, they are nevertheless contrary to the spirit of the Convention. An effort is therefore being made by the International Labour Office to bring these systems within the scope of the prohibition on forced or compulsory labour.

The Government of the Federal Republic of Germany welcomes the efforts of the I.L.O. and in principle approves of the requirements listed under question 7, clauses (a) to (c), of the questionnaire. What has to be avoided, however, is that the prohibition of forced labour for political and economic purposes remains ineffective because no express penalties have been instituted in the countries concerned and the work or service is exacted by direct coercion without the menace of a penalty. The Government consequently feels that the proposed instrument should merely state the principle that the improper utilisation of human labour is prohibited as a means of political coercion or education, or for the economic purposes described. The Government sees no need to revise or amend Convention No. 29 when the new instrument is approved. Nor would any such revision be relevant to the purpose in view, because a further discussion of Convention No. 29 would divert attention from the real subject of negotiation, only to centre it on a number of incidental problems.
The Government of the Federal Republic of Germany also feels that the new instrument should take the form of a Convention in order to make the prohibition of forced labour more effective (question 2).

**Mexico**

The relevant part of article 5 of the Mexican Constitution provides that—

"No person may be obliged to render personal labour without just compensation and without his full consent, except labour imposed as punishment by judicial authority; such work shall be regulated by the provisions set forth in subdivisions 1 and 2 of article 123 [fixing hours of work at a maximum of eight in the day for day work and seven for night work, and prohibiting unhealthy occupations for women in general and for young persons under 16 years of age]. In regard to public services, only military and jury duty, as well as the discharge of compulsory public offices and those directly or indirectly subject to popular election, may be obligatory in the manner established by the respective laws. Electoral functions are obligatory and uncompensated. The State may not permit to be carried into effect any contract, pact, or agreement that has as its object the impairment, loss, or irrevocable sacrifice of the liberty of man, whether by reason of occupation, education, or religious vow...".

In view of this provision of the Constitution the Department of Labour and Social Welfare considers that the proposed international instrument should take the form of a Convention, since its intent is in accordance with the humanitarian principles and the principles of labour protection which are at the basis of the Constitution and the labour legislation of Mexico.

Consequently, the Department of Labour and Social Welfare considers that it must reply in the affirmative to all the questions contained in Report VI (1), with the exception of Nos. 5, 10, 12, 14, 17 (b), 18, 22 and 23, to which the reply is in the negative.

**New Zealand**

It appears desirable to adopt an all-inclusive definition without the exclusions which formed part of the definition for the purposes of Convention No. 29, and to provide that forced labour as defined shall not be used except in circumstances expressly permitted in the instrument. In its replies to the questions the New Zealand Government indicates its position in relation to the matters specified so that the International Labour Office may be informed as to New Zealand’s position on each point when further considering each. At the present stage, however, the New Zealand Government prefers to reserve its position in relation to the structure and detailed content of the proposed instrument as a whole pending further study of the relationship of the proposals to Convention No. 29 and to any possibility of achieving the fundamental object of the Ad Hoc Committee by some shorter form of instrument.

**Switzerland**

In its letter of communication the Government of Switzerland states "We reserve the right to modify if necessary our opinion on any point or to complete our information during the discussion of this question at the Conference”.

**Thailand**

The Ministry of Foreign Affairs wishes to inform the Office that the system of forced labour does not exist in Thailand, that it is in favour of placing the matter on the agenda of the 39th Session of the International Labour Conference with a view to the adoption of an international instrument dealing with forced labour practices, and that such instrument should take the form of a Convention.
The Government of the Union of South Africa is irrevocably opposed to forced labour as described in resolution 350 (XII) adopted by the Economic and Social Council on 19 March 1951, and in which the International Labour Office was invited to establish a committee to "study the nature and extent of the problem raised by the existence in the world of systems of forced or 'corrective' labour, which are employed as a means of political coercion or punishment for holding or expressing political views, and which are on such a scale as to constitute an important element in the economy of a given country."

The Ad Hoc Committee on Forced Labour, appointed pursuant to this resolution, interpreted its terms of reference in a way that enabled the Committee to extend the scope of its study far beyond the field of "political coercion or punishment for holding or expressing political views . . .", with the result that a number of matters which were irrelevant to the basic purpose of the requested study were dealt with in the Committee's report. This had the unfortunate effect of detracting from the fundamental object of the Economic and Social Council's resolution.

The Union Government is of the opinion that the course proposed in Report VI (1) will also have the effect of diverting attention from the real evils of forced labour. Matters of detail could, in the opinion of the Union, more appropriately be considered when the 1930 Convention comes up for the prescribed periodical revision.

It is considered, therefore, that the discussions at the International Labour Conference in 1956 should be concentrated on the drafting of a Convention or a Recommendation aimed at eliminating the type of forced or compulsory labour envisaged in clauses (a) and (b) of question 7, viz.: forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views; and forced or compulsory labour as a normal method of mobilising labour for purposes of economic development.

Report VI (1) does not indicate what practices are to be covered by the phrase "labor discipline" in clause (c) of question 7. The Union Government therefore wishes to reserve its position in regard to this paragraph until the scope thereof has been clarified.

In view of the foregoing the Union Government does not consider that a detailed reply to the questionnaire in Report VI (1) would serve a useful purpose at this stage.

U.S.S.R.

To this end, the International Labour Conference should adopt as broad and radical an instrument as possible and one which will draw the attention of member countries of the I.L.O. to the need to eliminate not only the avowed but also the unavowed forms of forced labour which are widely prevalent in different parts of the world, and which more particularly involve the exploitation of economic dependence, debt bondage and various kinds of servitude as well as discrimination and action against strikes. Only an all-embracing document of this kind, abolishing all forms of forced labour, both avowed and unavowed, throughout the world can be of assistance to the workers in their legitimate fight against the most backward and inhuman forms of exploitation still to be found in different parts of the world.

United Kingdom

The United Kingdom Government have carefully considered the proposals set out in the report and the appended questionnaire regarding the general lines which the proposed instrument might follow. They note that the procedure adopted has been broadly to take in turn the various forms of forced labour which are specifically
excluded under Article 2 of the Forced Labour Convention, 1930, and to deal with each of these in greater detail, adding certain safeguards and restrictions designed to prevent abuse.

If the instrument were in fact to follow this pattern, there are a number of points which the United Kingdom Government would wish to raise in regard to particular provisions. In their view, however, the general approach adopted in Report VI (1) is not the one which is likely to prove most fruitful or effective. As is recalled in Chapter I of the report, the Joint United Nations-I.L.O. Ad Hoc Committee on Forced Labour, in its report published in 1953, drew special attention to the existence in certain countries of systems of forced labour as a means of political coercion or for economic purposes, and called for the total abolition of such systems. The Governing Body's decision, at its 127th Session, to place the question of forced labour on the agenda of the 1956 Session of the International Labour Conference stemmed directly from these findings and its intention was, according to the understanding of the United Kingdom Government, that the 1930 Convention should be supplemented by a further instrument designed expressly to prohibit the particular systems of forced labour which had been so strongly condemned by the Ad Hoc Committee.

The United Kingdom Government consider that if the Conference proceeds to a consideration of the matter on the basis envisaged in the present questionnaire its attention will be distracted from this fundamental object. It will instead be led to embark on a reconsideration of the conditions attaching to the performance of normal civic obligations, military service, and so on, which is irrelevant to the attainment of that object. It is considered that these conditions could more appropriately be re-examined as a part of the process of revising the 1930 Convention, a matter which will shortly come separately before the Governing Body under the normal procedure. Finally, it is essential that the prohibition of forced or compulsory labour for the purposes condemned by the Ad Hoc Committee should be made absolute and not subject to the various exceptions set out in the latter part of the questionnaire. If these exceptions, which may be appropriate for other forms of forced labour, are brought into discussion at this time, a totally wrong impression will be created as to the relative gravity of the problems presented by forced labour respectively for political or economic purposes and for other purposes.

The United Kingdom Government strongly urge, therefore, that the proposed instrument should be confined, in substance, to creating an unqualified obligation to abolish, where it exists, forced or compulsory labour for the purposes specified in clauses (a) to (c) of question 7, and that the conditions attaching to the remaining types of forced or compulsory labour, as set out in the subsequent questions, should be left to be dealt with in the Forced Labour Convention, 1930, with whatever changes may be made in that instrument as a result of the forthcoming review by the Governing Body.

URUGUAY

The question does not interest Uruguay which has no colonies or possessions and does not have any problem of forced labour.

I. Form of the International Instrument

The Government of Cuba submitted the following general observations on this part of the questionnaire:

CUBA

In so far as it concerns a declaration of principle the international instrument should be in the form of a Convention. The instrument would be compatible with Cuban legislation which considers work as a right. Once adopted, its approval would be recommended to the Senate of the Republic for ratification by the executive authority of the nation.
1. Do you consider it desirable that the International Labour Conference should adopt a new international instrument dealing with forced labour practices which are excluded from the scope of the Forced Labour Convention, 1930, by the terms of Article 2 (2) thereof?

Thirty-eight governments replied to this question. Twenty-four (those of Burma, Ceylon, Colombia, Denmark, Dominican Republic, Iceland, India, Iraq, Ireland, Israel, Japan, Lebanon, Mexico, Netherlands, New Zealand, Norway, Pakistan, Peru, Philippines, Portugal, Sweden, Syria, Thailand and Turkey) replied in the affirmative. The replies of the other governments, including that of Finland, which dealt with questions 1 to 3 in a single reply, and the U.S.S.R., which dealt with questions 1 and 2 in a single reply, are reproduced below.

**Australia**

1. Yes. The Australian Government considers that the provisions of Convention No. 29 do not deal adequately with the problem of forced or compulsory labour practices. Article 2 (2) of that Convention excludes certain practices from the scope of its provisions and, in some instances, defines these practices somewhat loosely. Although certain specific exceptions to the prohibition of forced labour are necessary, the Australian Government considers that the scope of the proposed instrument should, if possible, be clearly defined so that no forced labour as a means of political coercion or labour discipline, and no forced labour for economic purposes, could be permitted under its provisions.

**Austria**

1. Yes. It is gathered from the report on forced labour prepared by the International Labour Office that an ad hoc committee set up jointly by the Economic and Social Council of the United Nations and the I.L.O. has collected evidence relating to forced labour and has come to the conclusion that at the present time two kinds of forced labour still exist. The one can be described as a means of political coercion or punishment for holding or expressing political views; the other is employed for economic purposes.

   Forced labour as a means of political coercion or punishment must be regarded as particularly endangering human freedom and human dignity. Forced labour for economic purposes exists in a variety of forms, which are also to be ruled out as being incompatible with fundamental human rights.

   Since both the above-mentioned forms of forced labour are excluded from the scope of the Forced Labour Convention, 1930, by the terms of Article 2 (2) thereof, a new international instrument should remedy this deficiency.

**Costa Rica**

1. Although freedom of employment is sufficiently safeguarded in Costa Rica and any form of human servitude is prohibited both by legislation and by the political and social organisation of the country, the Costa Rican Government considers that since the investigations carried out, as well as the information which it has received, directly show that in certain countries labour conditions still prevail which infringe the principle of a free choice of employment, an international instrument should be urgently adopted which would remedy as far as possible the above-mentioned abnormal situation and be complementary to the instrument adopted in 1930.
Czechoslovakia

1. Yes. We consider appropriate particularly such an instrument which would include all forms of forced labour, both open and hidden.

Egypt

1. Yes. The Egyptian Government agrees to the reconsideration of forced labour practices which are excluded from the scope of the Forced Labour Convention, 1930, by the terms of Article 2 (2) thereof. It would be advisable to adopt a new international instrument for this purpose.

Finland

1 to 3. The Government of Finland believes that the elaboration of a new instrument dealing with forced labour practices is a necessary measure. At the time of writing it is suggested that the instrument should take the form of a Convention because this would obviously better enable the attainment of the proposed objectives.

Honduras

1. In view of the report of the Ad Hoc Committee on Forced Labour, it is considered that a new international instrument should be adopted to deal more comprehensively with forced labour practices.

Hungary

1. Yes. The Hungarian Government expresses the firm conviction that all forced labour practices restrict the fundamental rights of man and it is therefore a primary duty for all States to strive for the suppression of forced labour.

The Hungarian Government wishes to draw attention to the fact that the report of the Ad Hoc Committee on Forced Labour cannot serve as the basis for the elaboration of a new international instrument. On the one hand, the composition of this Committee did not ensure that the examination of this question would be carried out objectively and with a full knowledge of the circumstances; the trade unions, representing the interests of workers, were not represented on the Committee. On the other hand, the Committee did not base its conclusions on concrete facts but on calumnies and falsehoods. The Committee failed to examine the conditions of work existing in capitalist countries and in colonies and concentrated all its attention on calumnies relating to the Soviet Union and the people's democracies.

Moreover, the Hungarian Government wishes to stress that, in its opinion, the International Labour Organisation should make serious efforts in regard to the application of the Forced Labour Convention, 1930, since this Convention has not been fully applied in many countries. The Government is in favour of each new regulation bearing on the protection of the fundamental rights of man, but it wishes to emphasise at the same time that one should not attach such overwhelming importance to the new instrument dealing with forced labour practices excluded from the scope of the Forced Labour Convention, 1930, by the terms of Article 2, paragraph 2, of this Convention, that the principal question, which is the application of the Convention adopted in 1930, finds itself relegated to the background.

Iran

1. Yes, but we believe that this would once again impose a new limitation for, as stated on page 13 of Report VI (1), “It does not cover all the ways in which the freedom of workers can be restricted... nor does it deal with all the types of forced labour practices pointed out in the report of the Ad Hoc Committee”. 
The report describes the abolition of forced labour as a valid and deeply cherished principle (p. 14). Therefore, the mandate of the Committee of the Conference should be as wide as possible. No restriction should be placed upon it, as this might risk a repetition of the error already committed regarding the scope of the new Convention concerning the abolition of penal sanctions for breaches of contract of employment by indigenous workers.

ITALY

1. In view of the time at which the previous Convention on this subject was adopted, the events that have occurred between then and now and the experiences of a number of countries, a new international instrument on forced labour would appear to be opportune.

SWITZERLAND

1. Having ratified the Forced Labour Convention, 1930, Switzerland is not opposed to the International Labour Conference adopting a new instrument dealing with the practices which are excluded from the scope of the previous Convention.

U.S.S.R.

1 and 2. It would be desirable for the International Labour Conference to adopt a Convention abolishing all forms of forced labour, as stated in the introduction.

UNITED KINGDOM

1. See “General Observations”. It is considered that a new instrument is desirable but that it should deal only with the use of forced or compulsory labour for the purposes specified in clauses (a) to (c) of question 7.

YUGOSLAVIA

1. The International Labour Conference should adopt a new international instrument on forced labour. However, the Government of Yugoslavia is of the opinion that this instrument should include a revised version of the Forced Labour Convention, 1930. This revised text should cover both the elements of the existing Convention and the new forms of forced labour.

2. Do you consider that such an instrument should take the form of a Convention or a Recommendation?

Thirty-seven governments replied to this question. Twenty-three (those of Australia, Burma, Ceylon, Colombia, Denmark, Dominican Republic, Egypt, Finland, Iceland, India, Iraq, Israel, Ireland, Mexico, Netherlands, New Zealand, Norway, Pakistan, Sweden, Thailand, U.S.S.R., United Kingdom and Yugoslavia) suggested a Convention. The replies of the other governments are reproduced below.

AUSTRIA

2. The binding form of a Convention should be adopted, if only in view of the fact that the new provisions are to be supplementary to the Forced Labour Convention, 1930.

1 See above, p. 6.
Costa Rica

2. As for the form to be given to the instrument, the Costa Rican Government shares the opinion expressed by the Workers' and Employers' groups at the 127th Session of the Governing Body that the instrument to be adopted should take the form of a Convention, since it feels, with them, that "such a form would ensure a more effective enforcement of the international standards embodied in the instrument" and especially since this is a matter of the fundamental rights of the human person.

Honduras

2. It is considered that this instrument should take the form of a Convention in order to make it more effective.

Hungary

2. The Hungarian Government refers to the reply given to question 1. It recalls once again that the report of the Ad Hoc Committee on Forced Labour is not founded on concrete facts and that the examination of the application of the Convention adopted in 1930 has not been done in a satisfactory manner. In these circumstances it would be useful if exact details were collected before the adoption of a Convention.

The Hungarian Government refers moreover to Report VI (1), which states on page 21 that the Draft Covenant on Civil and Political Rights under study by the United Nations also deals with the prohibition of forced or compulsory labour. All these circumstances suggest that, pending the conclusion of an instrument of a general character, the International Labour Organisation should not deal at present with this question except in the form of a Recommendation.

If, however, during the session of the International Labour Conference it becomes apparent that it is necessary for the new instrument to take the form of a Convention, the Hungarian Government would not oppose the adoption of such an instrument.

Iran

2. A Convention completely independent from that of 1930.

Italy

2. Rather than a Recommendation it would be desirable to adopt an international Convention, which should then be submitted for ratification to the appropriate body in each State.

Japan

2. The instrument should take the form of a Convention. It is considered that the particular forms of forced labour dealt with in this questionnaire have not been satisfactorily controlled by the provisions of Article 2 of the 1930 Convention. The adoption, in the form of a Recommendation, of an international instrument having the objective of preventing or eliminating these existing forced labour practices would not well serve its purpose.

The problem of prohibiting forced labour is so important and fundamental, and so closely related to the fundamental human rights, that it must be provided by a Convention which has a strong restrictive effect.

Lebanon

2. A Convention, in agreement with the Workers’ group and the majority of the Employers’ group who felt that this "would ensure more effective enforcement of the international standards proposed".
FORCED LABOUR

Peru

2. The new instrument should take the form of a Convention, as this would provide fuller guarantees for its enforcement.

Philippines

2. The instrument should take the form of a Convention to ensure compliance by member States.

Portugal

2. The adoption of a new international instrument covering the questions dealt with in the questionnaire would necessarily entail the revision of Convention No. 29. It would, therefore, appear that the instrument should take the form of a Convention.

Switzerland

2. In this particular field a Convention would appear to us to be the more appropriate form to give to a new instrument, on condition that its provisions were acceptable to a great number of countries.

Syria

2. We favour the adoption of a Recommendation which will aim at completing the existing Convention No. 29.

Turkey

2. We favour the adoption of a Recommendation.

3. If you consider a Convention desirable would you, if the terms of the Convention were satisfactory to you, be prepared to envisage recommending ratification of the Convention to the appropriate authority in your country?

Thirty-six governments replied to this question. Twenty-four (those of Austria, Burma, Ceylon, Colombia, Costa Rica, Denmark, Dominican Republic, Egypt, Honduras, Iceland, Iran, Iraq, Ireland, Lebanon, Mexico, Netherlands, New Zealand, Norway, Pakistan, Peru, Philippines, Sweden, United Kingdom and Yugoslavia) replied in the affirmative. The Government of Canada referred to its general observations.¹ The Government of Finland dealt with questions 1 to 3 in a single reply. The replies of the other governments are reproduced below.

Australia

3. As Australia has a federal system of government and as the terms of the instrument are not settled, the Australian Government is not in a position to reply to this question.

Hungary

3. The Hungarian Government refers to the fact that the competent authority is at present studying the question of the ratification of the Forced Labour Convention, 1930, and this circumstance is relevant to the reply to be given to this question.

¹ See above, p. 3.
INDIA

3. While the Government of India would be willing to give the most careful consideration to the question of ratifying the proposed Convention when adopted, it is not possible to give any definite undertaking in this regard until the individual provisions of the Convention are finalised by the Conference.

ISRAEL

3. The Government of Israel wishes to stress that the provisions of article 19 of the Constitution of the I.L.O. would be strictly and promptly complied with if a Convention on forced labour were adopted.

ITALY

3. Should the terms of the Convention be found to be satisfactory the Italian Government, largely in its capacity as administrative authority for Somaliland, will submit it for ratification.

JAPAN

3. Yes. It might be possible to take procedures for ratification, should a new Convention be adopted with satisfactory contents, paying due respect to the observations of the Government of Japan on the questions which follow.

PORTUGAL

3. The necessary measures will be taken to eliminate such difficulties as may arise out of the ratification of a new Convention. In fact, the preliminary studies leading up to the ratification of Convention No. 29 have already been completed.

SWITZERLAND

3. If the national provisions which are at present in force, or which are likely to be adopted in the future, ensure in all respects the application of the Convention which the Conference might adopt, and national practice is in agreement with the provisions of the Convention, then the Government will not hesitate to propose a ratification of this Convention to the competent authority.

TURKEY

3. In view of the reply already given to question 2 none is needed to this question.

U.S.S.R.

3. It is assumed that the procedure for submitting the Convention for ratification would, as usual, be in accordance with article 19 of the Constitution of the International Labour Organisation and that, if the provisions of the Convention were satisfactory, its ratification could be recommended to the competent authorities.

II. Definition of Forced Labour

The Government of Cuba submitted the following general observations on this part of the questionnaire:

CUBA

Any form of service whatsoever which is not offered in a completely voluntary manner should be considered as forced labour. This implies the right to abandon one's work at any moment.
4. Do you consider the definition of forced labour included in Article 2 (1) of the Forced Labour Convention, 1930, namely that "the term ‘forced or compulsory labour’ shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”, adequate for the purposes of the new international instrument?

5. Have you any modifications of this definition to suggest, for the purposes of the proposed new instrument? If so, which?

Thirty-seven governments replied to these questions. Sixteen (those of Australia, Ceylon, Dominican Republic, Egypt, Hungary, India, Iraq, Ireland, Italy, Lebanon, Mexico, Pakistan, Peru, Philippines, Sweden and the United Kingdom) replied in the affirmative to question 4, and in the negative to question 5. The replies of the other governments are reproduced below.

Austria

4 and 5. The definition of forced labour in Article 2 (1) of the Forced Labour Convention, 1930, seems too general for the purpose of the new instrument. The new definition should expressly state what particular forms of forced labour it covers, and the notion that not only the menace of any penalty but also economic pressure—the menace of economic sanctions as a means of securing forced labour—should be renounced. It also seems necessary that the new definition should include administrative measures (not covered by the notion of a penalty) which can lead to forced labour.

For the purpose of the new Convention forced labour could accordingly be defined in some such way as the following:

"Any kind of work or service exacted from a person through economic pressure or through moral or political coercion, by means of any administrative procedures, under the menace of any penalty or any illegal economic, cultural or social sanction, and for which that person has not offered himself voluntarily, is to be regarded as forced labour."

Burma

4. No.

5. We feel that the term "any penalty" should be more carefully defined. The words "either legal or economic, mental or physical" should be added.

Colombia

4. This could be further clarified.

5. "All work or service which is unlawfully exacted . . . voluntarily."

Costa Rica

4. The definition of forced or compulsory labour given in paragraph 1 of Article 2 of Convention No. 29 of 1930 seems to us to be adequate, since it fulfils its objective which is to explain succinctly what is meant by forced labour. We do not think that the mere fact that the historical circumstances in which it originated have changed is sufficient to require its redrafting since, being a definition, it must include all situations, both past and future, irrespective of the circumstances which served as an example for its formulation.

5. This has been answered.
Czechoslovakia

4 and 5. We consider the definition to be too narrow and not including all forms of forced labour. We intend to propose an extension of the definition of forced labour so as to include all forms of forced labour, not excluding duress arising from the economic dependence of employees on their employers.

Denmark

4. The Government doubts if the definition of forced labour included in the 1930 Convention covers such forced labour conditions as found by the Ad Hoc Committee and mentioned in paragraph 560 of the report of that Committee.

5. The Government recognises that the existence of such forced labour conditions as mentioned in the reply to question 4 may necessitate modifications to be made with respect to this definition.

Finland

4 and 5. There are no observations to make on the subject of the definition of forced labour included in the Convention of 1930. In replying thus, however, the Government of Finland takes it for granted, as it did when ratifying the Convention of 1930, that compulsory service imposed as a form of social welfare, as, for example, assistance to alcoholics and to vagabonds, or work exacted from an individual who fails in his duty of maintaining his dependants, should not be considered as forced labour.

Honduras

4. In principle this definition would appear to be suitable.

5. It would be desirable to refer in the definition to political activities which in some countries are repressed by means of forced labour.

Iceland

4 and 5. The Government of Iceland considers it advisable to take up the definition of forced labour for new discussion, in view of the changes which have occurred since 1930.

Iran

4 and 5. Yes, but add “any work or service or obligation for which the worker has offered himself voluntarily, but motivated by well-founded fears” (in the sense of article 30 of the Swiss Code des obligations).

Israel

4 and 5. The definition suggested in question 4 may lend itself to an interpretation excluding from the term “forced labour” work or services exacted under the menace of any penalty, if the person concerned has offered himself “voluntarily” to do the work. As a person under threats of penalty is unable to exercise his own will, the fact of his offering himself “voluntarily” should not be taken into consideration. The following definition is therefore suggested: “forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty or as a punishment.”

Japan

4. Yes. The Government of Japan ratified the 1930 Convention as early as November 1932, and has encountered no obstacles in its enforcement with the definition laid down in the above-mentioned Convention.

5. No observations.
4 and 5. The definition of forced labour included in Article 2, paragraph 1, of the Forced Labour Convention, 1930, namely that "the term 'forced or compulsory labour' shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily", raises the question whether this takes sufficient account of the fact that, in countries where a system of forced labour exists, this is often imposed through administrative measures. It can be supposed that when a person has been placed in a labour camp he incurs punishment when he does not work, but it may also be that the sanction applied is a reduction in the food ration. This, properly speaking, would not be a menace of a penalty. As against this, the definition of forced labour always carries with it the element, which appears in the definition, that the individual concerned does not offer himself voluntarily. It might therefore be preferable to delete the words "which is exacted from any person under the menace of any penalty and . . .".

NEW ZEALAND

4. This definition is acceptable to the New Zealand Government subject to the instrument providing satisfactory articles as indicated in replies to subsequent questions.

5. None, provided satisfactory permissive articles are included in the instrument.

NORWAY

4 and 5. The Government of Norway is of the opinion that it is appropriate that the definition of forced labour be taken up for new discussion, and that the definition to be used in the new instrument should cover the forms of forced labour existing at the present time (cf. the report of the Ad Hoc Committee on Forced Labour).

PORTUGAL

4. This definition could be retained, but its practical value will depend on the exceptions and conditions attached to it.

5. No.

SWITZERLAND

4 and 5. Yes; the definition of forced labour can be taken from the Convention of 1930, since the new instrument is intended to fill certain gaps.

SYRIA

4. No.

5. It is preferable to exclude any definition of forced labour since it is very difficult for this definition to be fully adapted to the terms of the proposed instrument. The Government of Syria believes that it is preferable that it should be limited to an enumeration of cases of forced labour which are so considered by the instrument.

TURKEY

4. While this definition specifies the outlines of forced labour, there are still many new findings that have been noted down in this respect in the course of the period after the adoption of the Convention of 1930. Unfortunately, the different forms of forced labour with which one is concerned in various fields appear to have the tendency of remaining outside this general definition. Therefore, the Government of Turkey is convinced that this definition should be reviewed so as to avoid all sorts of misuses by taking into account also the present-day practices.

5. No.
U.S.S.R.

4 and 5. The definition of forced labour included in Article 2 (1) of the Forced Labour Convention, 1930, should be clarified. It is as follows:

"All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."

It is suggested that it read as follows:

"For the purposes of this Convention the term 'forced labour' shall mean all work or service which is exacted from any person under the menace of any penalty or violence and for which the said person has not offered himself voluntarily, or which is exacted in virtue of any other circumstances involving the personal and economic dependence of the worker on the employer, and whereby the said work becomes a duty.

"Work shall be regarded as forced labour, inter alia, in the following cases:

(a) when, for the purposes of inducing a person to work, use is made of various forms of economic dependence, including, more particularly, debt bondage and other servitude;

(b) when the intervals and procedure adopted for the payment of remuneration deprive the worker of any genuine possibility of ceasing to work for an employer at any time, or when there is actual delay in the payment of his remuneration as compared with the agreed periods, with the result that the worker is obliged to remain in his employment;

(c) when, either officially or de facto, discrimination is exercised in the fields of recruitment, working conditions or trade union activity on grounds of race, sex, nationality, religion or trade union membership, in consequence whereof groups of the population or individuals are placed in a position where they are deprived of the possibility of selecting their employment freely and are compelled to give their services only in such branches and occupations as remain accessible to them or in unfavourable conditions by comparison with those enjoyed by persons not subject to discrimination on the above grounds;

(d) when, either officially or de facto, judicial or administrative measures are taken to limit, prohibit or penalise participation in strikes, with the object of inducing the strikers to resume work or of limiting their opportunities to use the means customarily employed in strikes for the defence of their demands, as well as any other forms of interference in labour disputes by the central or local authorities acting in the interests of the employers."

YUGOSLAVIA

4. The definition of forced labour included in the Convention of 1930 is not adequate for the needs of the new international instrument.

5. It is necessary to widen the definition of forced labour so as to include other elements and conditions, namely physical force and serious menace, the political and economic position of the person, his sex, race, nationality, religion, etc. These and other similar elements could usefully serve as a basis for formulating a wider and more complete definition which could be discussed at the Conference.

III. Scope

The Government of Cuba submitted the following general observation on this part of the questionnaire:
FORCED LABOUR

CUBA

The prohibition of forced labour should be absolute and without exceptions because the fact of working as an absolute right of the individual depends upon an action the source of which lies in the very will of the individual.

6. Do you consider that the proposed instrument should place on record the general principle that no one shall be required to perform forced or compulsory labour?

Thirty-seven governments replied to this question. Twenty-eight (those of Austria, Burma, Ceylon, Colombia, Denmark, Dominican Republic, Egypt, Honduras, Hungary, Iceland, India, Iran, Iraq, Ireland, Lebanon, Mexico, Netherlands, Norway, Pakistan, Peru, Philippines, Portugal, Sweden, Switzerland and Turkey) replied in the affirmative. The replies of the other governments, including that of the United Kingdom which dealt with questions 6 and 7 in a single reply, are reproduced below.

AUSTRALIA

6. Yes. The need for an unequivocal statement of this general principle is of the utmost importance at the present time and the Australian Government considers that it should be stated without qualification at the commencement of the proposed instrument.

COSTA RICA

6. The instrument to be adopted should, wherever possible, reflect the general principle that no one shall be required to perform forced or compulsory labour, a definition of forced labour being given in the instrument so that it may remain effective and binding irrespective of the historical circumstances in which it originated. Article 56 of the Political Constitution of Costa Rica states that:

"Work is a right of the individual and an obligation towards society. The State must ensure that all have an honest and useful occupation which is properly paid, and must prevent such occupation from giving rise to conditions which in any way impair the liberty or dignity of the individual or reduce labour to the level of a mere commodity. The State guarantees the right to a free choice of employment."

It will be seen that this paragraph contains the same principle except that it is here stated in a positive form (i.e. guaranteeing a right) whereas Convention No. 29 states it in a negative form (i.e. as a prohibition).

CZECHOSLOVAKIA

6. Yes. We recommend such a formulation which would really ensure that no one shall be required to perform forced or involuntary labour.

FINLAND

6. Yes. See, however, the reply to questions 4 and 5.
NEW ZEALAND

6. This does not appear to be an appropriate statement of the general principle of the proposed instrument. That no one shall be required to perform forced or compulsory labour cannot be accepted as a general principle for, say, military service, which comes within the definition. It seems illogical to state something as a "general principle" which is then, by subsequent provisions, reduced to a principle of limited application. The opinion of the New Zealand Government is that the general principle of the proposed instrument should be:

"That no one shall be required to perform forced or compulsory labour as a means of political coercion or education, or as a punishment for holding or expressing political views, or as a normal method of mobilising labour for purposes of economic development, or as a means of labour discipline."

SYRIA

6. It should be specified that this refers to the types of forced labour covered by the new instrument.

U.S.S.R.

6. The basic clause of the new instrument should be drafted as follows:

"Every Member of the International Labour Organisation ratifying this Convention shall undertake within the shortest time commensurate with the legislative procedure obtaining in the country concerned to prohibit the application of all forms of forced labour, whether open or concealed, and to take effective measures to secure their rapid and practical abolition. The competent authority in each country shall determine the forms of supervision to be exercised to ensure compliance with the relevant legislative provisions and shall institute strict criminal liability for any person in charge of any body, institution or undertaking or any private individual guilty of committing an infringement or of aiding or abetting an infringement of the said provisions."

UNITED KINGDOM

6 and 7. See "General Observations". The instrument should not attempt to lay down principles in regard to forced or compulsory labour in general but should confine itself to creating an unqualified obligation to abolish, where it exists, the use of such labour for the specific purposes listed in question 7.

YUGOSLAVIA

6. The text of the international instrument should contain a provision stating the general principle that no one should be required to perform forced or compulsory labour, and should impose an obligation on member States to suppress all legal provisions, administrative practices or any measures which prescribe or tolerate forced labour.

7. Do you consider that, without affecting the generality of this principle, the proposed instrument should specify more particularly—

(a) that forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views should be abolished in all cases;

1 See above, p. 6.
(b) that forced or compulsory labour as a normal method of mobilising labour for purposes of economic development should be abolished;
(c) that forced or compulsory labour as a means of labour discipline should be abolished?

Thirty-seven governments replied to this question. Twenty-one (those of Burma, Ceylon, Colombia, Czechoslovakia, Dominican Republic, Finland, Iceland, India, Iraq, Ireland, Italy, Lebanon, Mexico, Netherlands, Norway, Pakistan, Peru, Philippines, Portugal, Syria and Turkey) replied in the affirmative. The Government of the United Kingdom dealt with questions 6 and 7 in a single reply. The replies of the other governments are reproduced below.

**Australia**

7. (a) Yes.
(b) Yes. Material progress should not be placed above the freedom of the individual.
(c) Yes.

**Austria**

7. It seems expedient that individual mention should be made of the particular forms of forced labour specified in clauses (a) to (c).

**Costa Rica**

7. Since the investigations carried out have revealed specific practices of forced labour, the Government considers that the instrument would acquire much more force if it were to prohibit such practices explicitly.

**Denmark**

7. (a) and (b). Yes.
(c) Yes, subject to the exceptions provided for in the ordinary cases of detention imposed in accordance with article 5 of the European Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms.

**Egypt**

7. Yes, it would be advisable to specify certain types of forced labour which are of a rather disguised or elusive nature.

**Honduras**

7. As it would appear that the three forms of forced labour referred to in the respective sections of this question are those which at the present time would appear to be most prevalent in certain countries, it is considered that it would be useful to prohibit them individually.

**Hungary**

7. (a) Forced or compulsory labour as a means of political coercion or education, or as punishment, should not be employed in respect of persons who have expressed certain political opinions.
(b) and (c). Yes.
IRELAND

7. Yes, but the following should be added:
   " (d) any methods capable of restricting the liberty of the individual;
   " (e) any other forced labour practices mentioned in the report of the Ad Hoc Committee."

ISRAEL

7. (a) Yes.
   (b) It is agreed that forced labour as a system of economic development should be prohibited. The suggestion in this clause seems to be too wide and the wording of paragraph 1 of the resolution on forced labour adopted by the General Assembly of the United Nations at its Eighth Session seems to be preferable. The following is therefore proposed in substitution of the suggested text:
   " (b) that forced or compulsory labour as a regular method of mobilising labour for economic purposes, on a scale constituting an important element in the economy of the country, should be abolished."

As the purpose of the proposed instrument is the abolition of forced labour and not the prohibition of "direction of labour" expression should be given in the proposed instrument to this effect.
   (c) Yes.

JAPAN

7. (a) Yes. The Government of Japan, understanding that the intention of this point lies in the prohibition of forced labour as a means of forcing prejudiced political education, agrees to this point without any objection.
   (b) Yes. There exists no instance of such forced labour in Japan at the present time.
   (c) The term "labour discipline" should be defined more clearly, as it is not clear enough what it means.

NEW ZEALAND

7. No comment.

SWEDEN

7. (a) The same protection which would be granted for political conceptions should also be secured for religious conceptions, and irrespective of racial origin. The last part of a provision which in the future Convention would correspond to this point should thus read as follows: "or expressing political or religious views or on account of racial origin should be abolished in all cases."
   (b) The word "normal" should be deleted.
   (c) Yes.

SWITZERLAND

7. (a) and (b). Yes.
   (c) Before replying to this question it is necessary to know exactly the meaning of the words "as a means of labour discipline". If this definition includes work imposed as a means of education, or for notorious vagrants who might become a charge on public authorities, then the Government of Switzerland would propose that it be deleted.

U.S.S.R.

7. Any further clarification of the principle stated in question 6 should not affect the general nature of the principle.
The following addition should be made to clause (a):

"The expression 'political views' shall not be taken to mean appeals to subversive and treacherous acts, the advocacy of national and racial hatred, envy and contempt or propaganda in favour of war."

(b) and (c). There is no objection to a statement in the instrument to the effect that forced labour should be abolished as a normal method of mobilising labour for the purposes of economic development or as a means of maintaining labour discipline.

The instrument should further state that forced or compulsory labour for the benefit of private individuals, companies or associations should be abolished in all cases.

YUGOSLAVIA

7. Besides the adoption of this general principle it will be necessary to indicate specially the concrete forms of forced labour which should be prohibited. However, we believe that, besides the forms of forced labour mentioned in question 7, it is necessary to specify every other known form of forced labour and especially those indicated in the report of the Ad Hoc Committee on Forced Labour.

By specifying only those categories of forced labour mentioned in question 7, although these categories or forms of forced labour are those which have developed during the last 20 years, the new Convention would not cover the whole problem and would not attain its aim of preventing forced labour in whatever form it may appear. On the other hand, the history of the special cases of forced labour raised before the United Nations shows that they were of a political nature, which no longer corresponds to the real situation today. These three categories constitute in fact the elements of the definition of forced labour adopted by the United Nations and limit the problem to the type of forced labour which exists only in certain countries.

In consequence, if the international instrument is drafted in accordance with question 7, it would not be universal; it would therefore have an undesirable political character and would lose the human and social character that it should really possess.

8. Do you consider that the proposed instrument should exclude from its scope—

(a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;

(b) any work or service exacted instead of compulsory military service in the case of conscientious objectors in countries where conscientious objection is recognised?

Thirty-seven governments replied to this question. Twenty-two (those of Burma, Ceylon, Czechoslovakia, Dominican Republic, Egypt, Finland, Hungary, India, Iraq, Ireland, Italy, Lebanon, Mexico, Netherlands, Norway, Pakistan, Peru, Philippines, Portugal, Sweden, Switzerland and Syria) replied in the affirmative. The replies of the other governments, including that of the United Kingdom which dealt with questions 8 to 22 in a single reply, are reproduced below.
AUSTRALIA

8. (a) Yes, but it is considered that the scope of this exception should include any work undertaken by the military forces in the event of a national emergency, subject to appropriate safeguards and limitations designed to prevent the use of forced labour under the guise of compulsory military service.

(b) Yes, but again subject to appropriate safeguards and limitations.

AUSTRIA

8. The exclusion of the types of work specified here appears necessary, but the expression “work of a purely military character” should be further clarified.

COLOMBIA

8. (a) Yes.

(b) This does not arise in Colombia.

COSTA RICA

8. Under the Constitution Costa Rica is not allowed a permanent army and military forces may be recruited only as an exceptional measure. Consequently it is legally impossible to introduce permanent compulsory military service.

Nevertheless, the Government of Costa Rica understands that in many countries such service is essential for the defence of their territory and of their national institutions, and it therefore feels that it is advisable to admit an exception in the case of forced labour in virtue of compulsory military service. The scope of such an exception must be stated clearly in order to avoid an erroneous interpretation of this provision.

DENMARK

8. (a) Yes. It must be considered necessary that no restriction be made in the right of the national defence authorities to call up men, as necessary (pioneer troops for the execution of re-establishment works, the army service corps, auxiliary troops, etc.) and employ this personnel for work of importance to the national defence.

(b) Yes. The safeguards suggested in question 20 (f) should also apply to work or service exacted instead of compulsory military service in the case of conscientious objectors.

HONDURAS

8. In view of the widespread existence of compulsory military service laws it is considered that work exacted under this legislation or in place of it should be excluded from the scope of the instrument which it is proposed to adopt.

ICELAND

8. As Iceland has no military service the Icelandic Government refrains from replying to this question.

IRAQ

8. Yes, on condition that the terms are defined.

ISRAEL

8. (a) Yes, provided that all the other exceptions suggested apply to persons in military service.

(b) Yes.
JAPAN

8. Yes. In Japan, however, there is no compulsory military service system.

NEW ZEALAND

8. (b) In addition to persons recognised as conscientious objectors there are persons who otherwise default in their military service obligations. New Zealand law provides that such persons may be directed to undertake employment for a specified period in civilian work of national importance.

To cover such cases it is suggested that after clause (b) there would require to be inserted the following:
"(c) any work or service exacted instead of compulsory military service or as a penalty for default of compulsory military service in the case of persons other than conscientious objectors who fail to meet compulsory military service obligations."

TURKEY

8. (a) Yes.
(b) Yes (although this is not a method observed in Turkey).

U.S.S.R.

8. There is no objection to the exclusion from the scope of the instrument of any work or service exacted in virtue of compulsory military service laws for work of a purely military character or of any work or service exacted instead of compulsory military service in the case of persons refusing to do military service on political, religious or ethical grounds in countries where such a practice is recognised.

UNITED KINGDOM

8 to 22. See "General Observations". Having regard to the views there expressed, the United Kingdom Government do not wish to raise detailed points on these questions at the present stage but they reserve the right to do so later if this should prove necessary.

YUGOSLAVIA

8. In our opinion the notion of forced labour should not include work of a purely military character carried out during military service.

9. Do you consider it desirable to provide for exceptions to the principle that no one should be required to perform forced or compulsory labour—
(a) in respect of work or service forming part of normal civic obligations, appropriately defined and subject to appropriate safeguards and limitations;
(b) in respect of work or service exacted in consequence of a conviction in a court of law, subject to appropriate safeguards and limitations;
(c) in respect of work or service exacted in circumstances of emergency requiring the mobilisation of manpower for essential work of national importance, appropriately defined and subject to appropriate safeguards and limitations?

1 See above, p. 6.
Thirty-seven governments replied to this question. Twenty-seven (those of Australia, Ceylon, Costa Rica, Denmark, Dominican Republic, Egypt, Hungary, India, Iceland, Iran, Iraq, Ireland, Israel, Italy, Japan, Lebanon, Mexico, Netherlands, Norway, Pakistan, Peru, Philippines, Portugal, Sweden, Switzerland, Syria and Turkey) replied in the affirmative. The Government of the United Kingdom dealt with questions 8 to 22 in a single reply. The replies of the other governments are reproduced below.

**Austria**

9. (a) The value of the proposed new instrument would be enhanced and its application considerably facilitated if any exception likely to assist the introduction of some form of forced labour were exactly described in the instrument. General terms like "normal civic obligations" should, therefore, as far as possible be avoided.

(b) The exception is a desirable one. It seems essential, however, to provide for the requisite safeguards and limitations. Moreover, labour should not lose any of its dignity by the fact that a conviction in a court of law provides that it be imposed as a penalty on the offender as a reprisal by society. Labour imposed by a court should rather be a means of educating and rehabilitating the offender so that he will behave properly as a member of society.

(c) This exception is also desirable. In this case also it appears essential that suitable safeguards and limitations should be laid down.

**Burma**

9. (a) and (b). Yes.

(c) Yes, but the term "emergency" should be more carefully defined and the question of appropriate "safeguards and limitations" be very carefully examined.

**Colombia**

9. (a) This could be laid down.

(b) Yes.

(c) No.

**Czechoslovakia**

9. We favour exceptions, provided that such exceptions are strictly defined and subject to appropriate guarantees and limitations.

**Finland**

9. (a) Yes.

(b) Yes, but it should be specified what is meant by a "court of law". This definition would be necessary in order that it may be made clear whether the term means only ordinary courts or includes special courts.

(c) Yes.

**Honduras**

9. (a) As the labour referred to in this clause is not so much forced as a necessary contribution by the individual towards meeting the needs of the community in which he lives, it is considered that this exception should be allowed.

(b) It is not considered that this exception should be included unless in every case the obligation to perform such work is embodied with due safeguards in national legislation with binding force.
(c) It is considered that the exceptions proposed in this clause should be allowed in view of the fact that they relate to emergencies in which governments need the utmost freedom of action.

**New Zealand**

9. The use of manpower already mobilised for purely military purposes to meet sudden emergencies such as to avert or minimise floods, to deal with plagues (e.g. locusts), to undertake rescue operations, etc., does not appear to be covered either in Part III or in Part VI of the questionnaire. Part VI applies to the mobilising of manpower but not to the use of manpower already mobilised for military purposes.

The New Zealand Government is of the opinion that the use of already mobilised military personnel is an important factor in dealing with emergency situations of the kind indicated and therefore suggests that a further clause as follows would be required:

"(d) in respect of the use of persons undergoing full-time military training or military service in emergency work of a non-military character necessary to rescue individuals or communities from any peril they are in or to protect them from any sudden threat to their welfare."

**U.S.S.R.**

9. Subject to appropriate safeguards and limitations, exceptions to the general principle of prohibiting and abolishing forced labour should be made in respect of—

(a) work or service forming part of the normal civic obligations of citizens of fully self-governing countries;

(b) work or service exacted in consequence of a conviction in a court of law;

(c) work or service exacted in circumstances of emergency requiring the mobilisation of manpower for essential work of national importance.

**Yugoslavia**

9. In principle the Government agrees to the provision for exceptions which should not be considered as forced or compulsory labour.

10. *Do you consider it desirable to provide any further exception in respect of work or service exacted or performed for any other purpose?*

Thirty-three governments replied to this question. Twenty-two (those of Australia, Austria, Burma, Ceylon, Costa Rica, Czechoslovakia, Denmark, Hungary, Iceland, India, Iran, Iraq, Ireland, Italy, Lebanon, Mexico, Netherlands, Pakistan, Peru, Syria, Turkey and Yugoslavia) replied in the negative. The Government of the United Kingdom dealt with questions 8 to 22 in a single reply; the Government of the U.S.S.R. referred to its reply to question 9. The replies of the other governments are reproduced below.

**Egypt**

10. The Egyptian Government has no further exceptions in mind to propose for addition. On the contrary, such additions should be strictly limited.
Finland

10. If it is felt that the definition of forced labour can be interpreted in the manner suggested by the reply of the Government of Finland to questions 4 and 5, further exceptions would probably be unnecessary.

Honduras

10. It is considered that the exceptions specified are the only ones that by reason of their special circumstances can justify the exaction of forced labour.

Japan

10. No. In Japan personal freedom is forcibly restricted in no more than two cases: one where the restriction is imposed on a person in consequence of a conviction, and the other where it is unavoidable for the sake of the public welfare. As it is considered that question 9 covers all of the above cases it is not necessary to provide any further examples.

New Zealand

10. Services imposed by a tribal organisation or an indigenous community on its members in accordance with established custom. For example, in Western Samoa adult male Samoans are required to devote a certain number of hours on a specified day in each week to the collection, for destruction, of the rhinoceros beetle; also under the Native Regulations, 1925, which were introduced in an endeavour to institute a more detailed system of Samoan self-government in village affairs, services are contemplated which fall into two classes: (1) local public works, sanitary, and village requirements, etc., and (2) personal services which are by tradition and custom due to the chiefs.

Norway

10. It should be considered to what extent service of a non-military character, aiming at preventing damage to the civilian population by acts of war, or reducing such damage (self-defence) and service in the police reserve, should come under the provisions of questions 8 and 9. Training for service of this type will have to be compulsory even in times of peace in order to be effective.

Philippines

10. No. The Philippine Constitution (article III, section 13) provides that "No involuntary servitude in any form shall exist except as a punishment for crime whereof the party shall have been duly convicted ".

It is also provided in our Revised Administrative Code, section 1727, that: "All convicted, able-bodied, male prisoners, not over thirty years of age, may be compelled to work in and about prisons, jails, public buildings, grounds, roads and other public works of the Insular Government, the provinces, or the municipalities, under general regulations to be prescribed by the Director of Prisons, with the approval of the Department Head. Persons detained on civil process or confined for contempt of court and persons detained pending a determination of their appeals may be compelled to police their cells and to perform such other labour as may be deemed necessary for hygienic or sanitary reasons."
10. No other exceptions are proposed, it being assumed that the term "normal civic obligations" (question 9, clause (a)), covers the "general obligation to work" which is incumbent on all persons, and which is referred to in the Ad Hoc Committee's report.

SWITZERLAND

10. It would be a good idea to provide a special clause applicable to unexpected cases which might occur in everyday life and which should be included with these exceptions.

IV. Work or Service Forming Part of Normal Civic Obligations

General observations on Part IV were made by the Governments of Colombia and Cuba; these are reproduced below.

COLOMBIA

The Government takes the view that no civic obligation can be compulsory. It considers that as soon as it becomes compulsory it ceases to be civic.

CUBA

The Government refers to its comments on Part III.¹

11. If provision is made for an exception in respect of work or service forming part of normal civic obligations, do you consider it desirable to provide—

(a) that no work or service shall be excluded from the prohibition of forced or compulsory labour on the ground that it forms part of normal civic obligations unless the obligation to perform such work or service rests, subject to such exceptions as may be provided for by law, upon the population, or community concerned, as a whole;

(b) that no work or service exacted as a means of political coercion or education or as a punishment for holding or expressing political views shall be excluded from the prohibition of forced or compulsory labour on the ground that it forms part of normal civic obligations;

(c) that no work or service which is inconsistent with the principle of freedom of choice of normal occupation shall be excluded from the prohibition of forced or compulsory labour on the ground that it forms part of normal civic obligations?

¹ See above, p. 18.
Thirty-five governments replied to this question. Twenty-two (those of Australia, Burma, Ceylon, Denmark, Dominican Republic, Egypt, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Mexico, Netherlands, New Zealand, Norway, Pakistan, Peru, Switzerland, Syria and Turkey) replied in the affirmative. The Government of the United Kingdom dealt with questions 8 to 22 in a single reply. The replies of the other governments, including that of the U.S.S.R. which dealt with questions 11 and 12 in a single reply, are reproduced below.

**Austria**

11. (a) The observations made under question 9 (a) are also valid here.
   (b) Yes. With regard to the fulfilment of normal civic obligations in respect of which question 9 (a) affords the possibility of an exception to the prohibition of forced or compulsory labour, such labour for the purpose of political education or as a punishment should on no account be allowed.
   (c) Yes.

**Costa Rica**

11. (a) It is advisable in connection with such specific obligations or social duties not to make any distinction in order to preclude arbitrary action.
   (b) and (c). Yes.

**Czechoslovakia**

11. The Government has no objections. It recommends that clause (a) be supplemented by the words: "regardless of race, religion, nationality, education, property et al."

**Finland**

11. The Government of Finland is not convinced that the provisions contained in clauses (a) to (c) are necessary.

**Honduras**

11. (a) The Government is in favour of the exception given in this clause in respect of work performed on behalf of the community which should logically be borne by the population as a whole.
   (b) and (c). Yes.

**Italy**

11. Yes, but due care should be shown, and in any event the matter should not be left to the discretion of local bodies but should be incorporated in the national legislation of each State and every case should be clearly specified.

**Japan**

11. (a) Yes. The Constitution of Japan provides in its article 14 that: "All of the people are equal under the law, and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin", thus guaranteeing equality under the law. Both the enjoyment of the fundamental human rights and the restrictions for the sake of public welfare are equal for each person in the sense of the aforementioned provision.
   (b) Yes. However, if the words "in all cases" in question 7 (a) are retained there as in the original text, the provision of this clause (b) will not be necessary, as it is a repetition of the provision of question 7 (a). Besides, if the provision of
this clause \( b \) is retained in addition to the above-cited provision of question \( 7 \) \( a \), Part V—Work or service exacted as a consequence of a conviction in a court of law—should have similar provisions established therein; otherwise the provisions of question \( 7 \) \( a \) will not be thorough-going.

\( c \) Yes.

**Philippines**

11. \( a \) Yes, in order to prevent special obligations being imposed on a portion of the population in the community because of race, religion, language or political creed.

\( b \) Yes. It should be clearly stated that forced labour on political grounds should not in any case be considered a normal civic obligation as this will lead to abuse.

\( c \) Yes. This is in consonance with the Constitution of the International Labour Organisation and the Charter of the United Nations.

**Portugal**

11. \( a \) Yes; but insert the word "directly" towards the end of the clause, so that it would read "... upon the population or community directly concerned, as a whole;".

**Sweden**

11. \( a \) Yes.

\( b \) With reference to what has been stated under question \( 7 \) \( a \) a provision which in the future Convention would correspond to question 11 \( b \) should read as follows:

"\( b \) that no work or service exacted as a means of political coercion or education or as a punishment for holding or expressing political or religious views or on account of racial origin shall be excluded from the prohibition of forced or compulsory labour on the ground that it forms part of normal civic obligations".

\( c \) Yes.

**U.S.S.R.**

11 and 12. The instrument should provide that the exception of any types of work from the prohibition on forced labour on the ground that they form part of normal civic obligations may be made only where the obligation to perform such work rests upon all members of the adult able-bodied population of the country, area or locality, irrespective of their property status, race, nationality or religion, education and so on. In such cases the competent authority would determine the system and the scale of remuneration payable for the work and other conditions of employment, and should also provide that persons called upon to perform compulsory labour forming part of normal civic obligations shall have the right to retain their previous employment, together with their previous conditions of employment.

No work or service exacted as a means of political coercion or education or as a punishment for holding or expressing political views should be excluded from the prohibition of forced labour on the ground that it forms part of normal civic obligations. The same applies to work or service which is inconsistent with the principle of freedom of choice of normal occupation.

**Yugoslavia**

11. It is necessary to include a provision concerning this question.
12. Do you consider it desirable to specify any further types of work or service which should not be regarded as excluded from the prohibition of forced or compulsory labour on the ground that they form part of normal civic obligations?

Thirty governments replied to this question. Eighteen (those of Australia, Burma, Ceylon, Czechoslovakia, Denmark, Iceland, India, Iraq, Ireland, Italy, Mexico, Netherlands, New Zealand, Norway, Peru, Sweden, Switzerland and Turkey) replied in the negative. The Government of the United Kingdom dealt with questions 8 to 22 in a single reply. The Government of the U.S.S.R. referred to its reply to question 11. The replies of the other governments, including that of Portugal which dealt with questions 12 to 14 in a single reply, are reproduced below.

Austria

12. Yes. Every kind of permissible work or service should be accurately listed.

Costa Rica

12. The greater the number of situations specifically described as not falling under the exception, the better the definition of the prohibition, and the easier to guard against its infringement. For the time being, we have nothing to add to the types of work or service which should not be excluded from the prohibition relating to forced or compulsory labour.

Egypt

12. The Egyptian Government proposes to provide that no work or service exacted as a tribal customary obligation shall be excluded from the prohibition of forced or compulsory labour.

Finland

12. Probably this is not necessary.

Honduras

12. It is considered that the previous question taken as a whole covers all those types of forced labour which have most frequently been the subject of attempts in the past to exclude them from the definition of forced labour on the ground of normal civic obligations.

Hungary

12. Yes, since the questionnaire does not contain a precise definition of "normal civic obligations". For this reason, the Hungarian Government reserves the right to return to this question in the future in a more detailed manner, and to submit proposals on this subject.

Israel

12. It is considered desirable to specify that work or service instead of paying taxes or dues destined to finance operations enumerated in question 13 should not be regarded as excluded from a prohibition of forced or compulsory labour on the ground that they form part of normal civic obligations.
JAPAN

12. No. The foregoing provisions will constitute sufficient safeguards in the case of Japan.

PORTUGAL

12 to 14. The present Convention states that the term “forced or compulsory labour” does not include “any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country” or “minor communal services of a kind which, being performed by the members of the community in the direct interests of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services”.

It is now proposed to define what is meant by normal civic obligations to prevent the possibility of their being used as an excuse for exacting forced labour not in accordance with the spirit of this exception. It is not considered appropriate to specify all the types of work or service which should not be considered to be excluded from the prohibition on forced labour (question 12) as there might be a risk of omission. The same observation can be made regarding those types of work or service that may be regarded as part of normal civic obligations (question 13). Accordingly, our reply to questions 12 to 14 is in the negative.

YUGOSLAVIA

12. One should not enter into too much detail. However, it is necessary to include the forms of labour which will be added to question 7 and which may be considered as a part of normal civic obligations.

13. Do you consider that any work or service of a local character required by law or recognised custom from the population, or community concerned, as a whole, for the maintenance of communications, the preservation of food supplies, the provision of water supply, protection against fire, flood, avalanche, or any similar calamity, and the maintenance or improvement of local utilities and amenities may be regarded as a part of normal civic obligations?

Thirty-five governments replied to this question. Nineteen (those of Burma, Costa Rica, Denmark, Dominican Republic, Finland, Honduras, Iceland, India, Iraq, Ireland, Israel, Japan, Mexico, Pakistan, Peru, Sweden, Switzerland, Syria and Turkey) replied in the affirmative. The Government of Iran replied in the negative. The Government of Norway referred to its reply to question 14. The Government of the United Kingdom dealt with questions 8 to 22 in a single reply, and that of Portugal with questions 12 to 14. The replies of the other governments, including that of the U.S.S.R. which dealt with questions 13 and 14 in a single reply, are reproduced below.

AUSTRALIA

13. Yes. In a developed country such work or service would be necessary only in times of emergency, but in less developed countries, where public services and utilities to undertake such work or service are themselves undeveloped, then such work or service may be regarded as a part of normal civic obligations.
Austria
13. These exceptions are so broadly drafted that they could frustrate the proposed aim of restricting forced or compulsory labour as much as possible. Among the types of work or service here listed, which are to be regarded as arising out of normal civic obligations, there are a number that are not directly connected with averting a calamity, for instance the preservation of food supplies and the provision of water supply. The others also should be restricted to dealing with a danger that is already present. Incidentally, one could omit any special provision from this section, since these cases are already covered by the exceptions provided for in question 9 (c).

Ceylon
13. Work or service of the kind mentioned is not regarded as a normal civic obligation in this country.

Czechoslovakia
13. This work and service can be regarded as normal civic obligations provided that such work and service is required by law from all able-bodied citizens, regardless of race, religion, nationality, education, property, et al.

Egypt
13. Yes, but such local work or service should be of a provisional or occasional character.

Hungary
13. Yes, while specifying, however, that it is necessary to define in a more detailed manner and more exactly the types and the extent of these duties, in conformity with the point of view expressed in reply to question 12.

Italy
13. We agree with the definition of the term “normal civic obligations” subject to a reservation regarding “the improvement of local utilities and amenities”, lest this very general term might open the door to possible abuses.

Netherlands
13. In certain cases, the services envisaged here could be considered as forming part of normal civic obligations. For the Netherlands, only the case of floods is important. By virtue of article 226 of the Communal Law the mayor can require inhabitants of a commune to provide their personal help temporarily for the maintenance of order or in the common interest when the local officials or the aid furnished voluntarily is not sufficient and the local finances do not permit recourse to paid services. This outdated article is only applied in a very sporadic manner. The reply would be affirmative in principle, while bearing in mind that this question is relevant to the Netherlands only in the case of floods.

New Zealand
13. There might appropriately be added to this, after the words “water supply,” the words “the eradication of pests and noxious weeds inimical to the welfare of the community.” For example the Beetle Ordinance, 1921, makes provision in Western Samoa for compulsory community service against the ravages of the coconut beetle.
13. Yes, only in times of national emergency but it should only be for a short period so as not to deprive the citizens of their spare time.

13 and 14. Work or service required by law from all members of the adult able-bodied population, irrespective of their property status, race, nationality or religion, education, and so on, for the maintenance of communications, the preservation of food supplies, the provision of water supply, protection against fire, flood, avalanche or any similar calamity, action to counter epidemic or epizootic disease, the destruction of agricultural pests and the maintenance and improvement of local utilities can be regarded as forming part of normal civic obligations.

YUGOSLAVIA

13. The work and services enumerated in this question should be considered as forming part of normal civic obligations if they are approved by law or by recognised customs.

14. Do you consider it desirable to specify any further types of work or service which may be regarded as forming part of normal civic obligations?

Thirty-one governments replied to this question. Twenty (those of Australia, Burma, Ceylon, Czechoslovakia, Denmark, Finland, Iceland, India, Iraq, Ireland, Italy, Mexico, Netherlands, New Zealand, Pakistan, Peru, Philippines, Sweden, Switzerland and Turkey) replied in the negative. The Government of Iran replied in the affirmative, and the Government of Hungary referred to its reply to questions 12 and 13. The governments of the following countries dealt with several questions in one reply: Portugal, questions 12 to 14; United Kingdom, questions 8 to 22; U.S.S.R., questions 13 and 14. The replies of the other governments are reproduced below.

COSTA RICA

14. Contrary to what has been stated in question 12, it is advisable that the situations considered here should form an inclusive list in order to safeguard the whole.

EGYPT

14. The Egyptian Government has no such further types of work or service to recommend as parts of normal civic obligations. It suggests that the additions of such types should be strictly limited.

HONDURAS

14. It is considered that the use of the word "similar" in question 13 covers any other type of labour that can be considered to form part of normal civic obligations.
JAPAN

14. No. Specifications of work or service as mentioned in question 13 are considered adequate at the present stage so far as it does intend to cover some particular types of forced labour which can duly be regarded as constituting normal civic obligations.

NORWAY

14. It is assumed that the duty to take part in public elected bodies or in the administration of justice (as member of jury, or lay judge, etc.) must come under Part IV—Work or service forming part of normal civic obligations—and the Government doubts whether there is any reason for specifying these types of service in the enumeration under question 13. It has been assumed that this enumeration is not meant to be exhaustive, and it will therefore be a matter of judgment which examples should be included.

YUGOSLAVIA

14. It is considered that the work or services indicated in question 13 are sufficient and there is no need to enumerate other forms of work which might be considered as forming part of normal civic obligations.

15. Do you consider it desirable that the proposed instrument should limit the duration or extent of forced or compulsory labour forming part of normal civic obligations?

Thirty-five governments replied to this question. Thirteen (those of Austria, Burma, Dominican Republic, Iran, Iraq, Ireland, Israel, Mexico, Pakistan, Peru, Philippines, Syria and Turkey) replied in the affirmative. The Government of the United Kingdom dealt with questions 8 to 22 in a single reply. The replies of the other governments, including that of Denmark which dealt with questions 15 of 17 in a single reply, are reproduced below.

AUSTRALIA

15. It would appear to be impracticable to specify the precise duration of any compulsory labour forming part of normal civic obligations. The work should be of the shortest duration consistent with the civic need.

CEYLON

15. Yes. The duration or extent should be just sufficient to meet the needs.

COSTA RICA

15. Yes. It might be possible to apply, with appropriate exceptions, the rules governing special or normal employment.

CZECHOSLOVAKIA

15. Limitation both of the duration and extent of forced or involuntary labour forming part of normal civic obligations is favoured because such work or service must be considered as exceptional and of short duration.
DENMARK
15 to 17. With a view to the many different kinds of work or service coming under the concept of normal civic obligations, it would appear difficult to lay down common provisions on the duration or extent of the work or on age limits comprising all those kinds of work or service.

EGYPT
15. Yes. The duration and extent of such types of work or service to be exacted as civic obligations should be strictly kept within mere necessary limits.

FINLAND
15. It might perhaps be opportune to limit by a general definition the duration and extent of forced labour.

HONDURAS
15. Although in view of the special circumstances involved it would be difficult to place a time limit on all forms of work, it is considered that it would be desirable for the instrument to stipulate that such forms of work should not last longer than is essential in view of the hardships that would undoubtedly be caused to the workers concerned.

HUNGARY
15. The Hungarian Government also wishes to stress that in the first place it is an exact definition of "normal civic obligations" that will give a guarantee that work of this type does not take the character of forced labour. The Hungarian Government proposes, moreover, that the definition should include a stipulation that no person should be ordered to perform normal civic obligations except in cases of absolute necessity, and its duration and extent should conform to this necessity.

ICELAND
15. Yes, as far as possible.

INDIA
15. Yes. It is necessary to lay down that the work considered to be a normal civic obligation should be of limited duration so that it does not encroach on more than a small part of a man's spare time. Unless some restriction is imposed, work demanded as part of a citizen's civic obligations might seriously interfere with his normal life and work and affect the fundamental right of a citizen to choose his own way of life freely and without intervention.

ITALY
15. It would appear that the Convention should lay down the principle that work exacted by virtue of civic obligations should be restricted to the minimum time needed to deal with the emergency which led to the recruitment of the citizens concerned.

JAPAN
15. Yes. However, such limitations should be described not too much in detail, and should rather remain abstract. In view of the principle of prohibiting forced labour, such labour of unlimited quantity and period should not be allowed, even if it is supported by legal reasons. However, it is extremely difficult to pre-
dict precisely the period and extent of labour or service needed, for instance for the prevention of disease, and it is not appropriate to make decisive provisions on these points in an international instrument.

**NETHERLANDS**

15. It goes without saying that normal civic obligations should be of limited duration, but it is difficult to specify this limit. It might be desirable that the Convention state that these obligations should be temporary.

**NEW ZEALAND**

15. It would be desirable to indicate that the forced labour or service forming part of normal civic obligations should be subject to a prescribed restriction as to the proportion of time which may be required to be spent on such work.

**NORWAY**

15. The instrument should cover provisions that national legislation shall limit the duration and extent of the forced or compulsory labour forming part of normal civic obligations, but it will be difficult to stipulate any exact limit for the duration or extent in the instrument itself.

**PORTUGAL**

15. It would appear to be extremely difficult to find any formula that took account of the very special circumstances in which such work could take place.

**SWEDEN**

15. Yes, as far as possible.

**SWITZERLAND**

15. As soon as the principle of normal civic obligations is admitted it becomes difficult to limit the duration and extent of the work, since conditions can vary considerably from one country to another, and even from one region to another in the same country.

**U.S.S.R.**

15. The instrument should specify that any requirement to perform any work or service forming part of normal civic obligations should be of short duration and be limited to exceptional circumstances involving urgent work essential to society.

**YUGOSLAVIA**

15. Wherever forced or compulsory labour is permitted by law as part of normal civic obligations its duration and extent should be limited by this same law, taking account of the fact that it is necessary to assure to the populations normal conditions and standards of life. The proposed instrument cannot limit the duration and extent of forced or compulsory labour, since these depend on local conditions.
16. Do you consider that any limitation should be placed upon the extent to which work involving the transfer of workers from their homes may be regarded as a normal civic obligation covered by the provisions of this part of the questionnaire?  

Thirty-four governments replied to this question. Twelve (those of Burma, Ceylon, Costa Rica, Dominican Republic, Hungary, Iran, Iraq, Ireland, Mexico, Pakistan, Peru and Turkey) replied in the affirmative. The Government of the United Kingdom dealt with questions 8 to 22 in a single reply, and the Government of Denmark with questions 15 to 17. The Governments of Portugal and Switzerland referred to their replies to question 15. The replies of the other governments are reproduced below.

**Australia**

16. Work or service which involves the transfer of workers from their homes should be considered as a civic obligation only in time of emergency. The burden of such obligation should rest on the community as a whole, and normal civic obligation should be taken to mean, here as elsewhere, the work performed by a citizen by virtue of his communal obligations; he should not be expected to perform services of greater hardship or of longer duration than those allotted to his fellow citizens from time to time.

**Austria**

16. No. In the exceptional cases in which work or service should be allowed as a normal civic obligation no distinction should be made with regard to the extent of the work.

**Czechoslovakia**

16. Yes, but the limitation should be used only in cases where the local population cannot accomplish the work with its own power.

**Egypt**

16. Yes, such transfer should be strictly limited, and the number of days during which the transferred persons stay far from their homes should not exceed a fixed maximum.

**Finland**

16. It would be reasonable to limit in certain cases the extent of the work in question, although it is difficult to determine the limits in a just manner.

**Honduras**

16. Workers should be compensated for the expenses involved in leaving their homes and this practice should be confined to the strict minimum.

**Iceland**

16. Yes, as far as possible.

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1 The work or service exacted or performed in circumstances of temporary emergency requiring the mobilisation of manpower for purposes of essential work of national importance is dealt with in Part VI of the questionnaire.
INDIA

16. Yes. Workers should not ordinarily be moved away from their normal place of residence unless circumstances make such transfers absolutely essential. Where transfers are effected these should be for the minimum duration, which may be prescribed by national laws or regulations, and adequate arrangements should be made for the provision of food, shelter and medical aid at the actual place of work.

ISRAEL

16. No. It should, however, be provided that, if proper wages are not paid, transportation and, if necessary, suitable lodging and food should be provided cost free by the authority concerned.

ITALY

16. Any obligations involving the transfer of individuals from their homes for more than a specified period of time should not be considered as forming part of normal civic obligations. In any event citizens should only be called upon in such circumstances when it is impossible to provide alternative labour.

JAPAN

16. Yes. In Japan, however, the occurrence of a need for using labour on work which forms part of normal civic obligations and involves the transfer of workers from their homes is not ordinarily conceivable.

NETHERLANDS

16. Work involving the transfer of workers from their homes should not be considered as part of normal civic obligations.

NEW ZEALAND

16. Any proviso of this sort should also include a restriction as to the proportion of time which may be required to be spent on such work. There should be a prohibition against the transfer of workers other than for a short period at a time.

NORWAY

16. It might be desirable to prohibit completely forced or compulsory labour involving the transfer of workers from their homes but it would probably be difficult to apply such a prohibition to all forms of normal civic obligations. It will, therefore, even in this case, be left to national legislation to limit the obligation to work.

PHILIPPINES

16. Yes, because this might impose a burden on the persons affected and, in some cases, affect their living and working conditions.

SWEDEN

16. Yes, as far as possible.

U.S.S.R.

16. Calls on persons for work forming part of normal civic obligations and involving the transfer of such persons from their homes should be limited; they should
be permitted only where such work cannot be done by the local population and where any failure to do it as a matter of urgency may have adverse effects on the life of all or part of the population.

YUGOSLAVIA

16. Measures which would take workers away from their homes should be limited to exceptional cases foreseen in advance by the law.

17. Do you consider it desirable that the proposed instrument should provide for the exemption from forced or compulsory labour forming part of normal civic obligations of certain classes of persons—

(a) on grounds of age or disability;
(b) on any other grounds? If so, which?

Thirty-five governments replied to this question, one of which—Portugal—replied in the affirmative to the whole question, and seven (those of Burma, Iraq, Mexico, Netherlands, Pakistan, Philippines and Turkey) replied in the affirmative to question 17 (a) and in the negative to question 17 (b).

The replies of the other governments are reproduced below.

AUSTRALIA

17. (a) Yes.
(b) Family and similar responsibilities.

AUSTRIA

17. (a) Yes.
(b) Other exceptions should be allowed on grounds of pregnancy and maternal duties connected with confinement.

CEYLON

17. (a) Yes.
(b) Any other valid reason, whether temporary or permanent, for example that the worker is the sole adult in the house who has children to look after.

COSTA RICA

17. (a) Yes.
(b) If there were any other serious reason the Government would agree to its inclusion.

CZECHOSLOVAKIA

17. (a) Yes.
(b) Yes, e.g. pregnant women, women in the maternity period, women caring for children under six years of age, et al.
17. (a) Yes.
(b) Provision should be made here for at least certain conditions concerning the occupational qualifications of each worker.

EGYPT

17. (a) Yes, as regards age and disability (pregnant women included).
(b) The addition of the sole breadwinners of the family is suggested.

FINLAND

17. Yes; in such a fashion, however, that the provision concerning the exemption should be expressed in a general form, on the basis of which each country can define through legislation the categories of persons in question.

HONDURAS

17. Such persons are unquestionably in a position of inferiority in relation to the remainder of the community and should be exempted from the obligation to serve which is imposed on the others.

HUNGARY

17. (a) Yes.
(b) The following should also be exempted: pregnant women and nursing mothers; mothers who have children below six years of age under their sole care.

ICELAND

17. (a) Yes.
(b) Yes, for instance on grounds of sickness.

INDIA

17. (a) Yes.
(b) On grounds of serious illness of the worker himself or members of his family; or in case of maternity.

IRAN

17. (a) Yes.
(b) Sickness, responsibility for family, type of occupation not compatible with the service demanded.

IRELAND

17. (a) Yes.
(b) Exemption might also be granted for example to women, clergymen, doctors; it is considered that in the interests of flexibility the proposed instrument should not attempt to specify the grounds other than age or disability on which exemption might be granted but should leave member States free to grant such exemptions as they consider desirable.

ISRAEL

17. (a) Yes.
(b) The following should also be exempted from forced or compulsory labour forming part of normal civic obligations: women during pregnancy and one year after confinement; persons performing essential services.
ITALY

17. It is considered that the obligation to perform such work should not apply to old persons, pregnant or nursing women, children and physically or mentally-handicapped individuals; this would be in accordance with legislation for the protection of mothers, children, etc.

JAPAN

17. (a) Yes.
(b) Yes. Those whose capacity to work has been temporarily lost due to injuries, sickness or other reasons, should be excluded.

NEW ZEALAND

17. In such a proviso there should be provision for exemption on grounds of disability arising out of age or any other physical or mental condition, and on grounds of disproportionate personal hardship.

NORWAY

17. (a) National legislation should contain provisions covering this point.
(b) See the reply to question 18.

PERU

17. (a) Yes.
(b) Yes, provided the exception is justified (as it is, for example, in the case of compulsory military service).

SWEDEN

17. (a) Yes.
(b) On the ground of illness.

SWITZERLAND

17. (a) Yes.
(b) It is not possible to answer this question with a simple “yes” or “no”. It would depend on conditions in each country.

SYRIA

17. (a) Yes.
(b) The following should be exempted from forced or compulsory labour: government officials and persons entrusted with official missions in accordance with legislative provisions in force in each country, on condition that these functions or missions are incompatible with the forced labour required. Other categories of persons who are engaged in social work and whose absence might influence the progress of such work, and even prevent its continuation, might also be exempted from this type of forced labour.

U.S.S.R.

17. The instrument should provide for the exemption from compulsory labour forming part of normal civic obligations of certain classes of persons on grounds of age, sex, disability and family circumstances. It should, more particularly, make provision for the exemption of persons disabled at work or in war and other disabled persons, expectant mothers, women with young children and persons under age.
YUGOSLAVIA

17. The exceptions to this type of work should include the following: young persons under 14 years of age, men and women aged respectively over 60 and 50 years, invalids, sick persons, pregnant women and other persons for whom special protection should be provided.

18. Do you consider it desirable that the proposed instrument should place any further limitations or safeguards on forced or compulsory labour forming a part of normal civic obligations?

Twenty-nine governments replied to this question. Sixteen (those of Burma, Ceylon, Czechoslovakia, India, Iraq, Ireland, Italy, Mexico, Netherlands, New Zealand, Pakistan, Peru, Philippines, Portugal, Switzerland and Turkey) replied in the negative or made no comment. The Government of the United Kingdom dealt with questions 8 to 22 in a single reply. The replies of the other governments are reproduced below.

AUSTRALIA

18. The Australian Government considers that in defining work or service forming part of normal civic obligations the following points should be borne in mind: (a) it should be of a local character and required by law or recognised custom; (b) it should be exacted from the community as a whole, subject to such exceptions as may be provided for by law or custom; (c) it should not be excessive; (d) it should be of an essential character.

AUSTRIA

18. If the exceptional cases are accurately described, there is no need to define further limitations or safeguards.

COSTA RICA

18. The Government has no suggestion to offer at the moment. If, however, any important addition were proposed it would agree to its inclusion.

EGYPT

18. Yes; room should be left for such limitations or safeguards whenever they may appear appropriate to the competent authority.

FINLAND

18. It might be desirable to include as a supplementary limitation the need to maintain the families of those performing forced labour during the period that such labour is undertaken.

HONDURAS

18. It is considered that the previous questions give an adequate definition of the meaning of forced or compulsory labour forming part of normal civic obligations.
Hungary

18. The replies given to questions 13, 16 and 17 contain the proposals of the Hungarian Government on the limitations and safeguards relating to forced or compulsory labour forming part of "normal civic obligations".

Japan

18. Yes. Provision must be made for compensation to the workers concerned in case of accident.

Norway

18. The Government would like to raise the question whether the instrument should emphasise more clearly the principles of equal distribution in practice of civic obligations. It might be considered to be of importance to include a provision that groups of persons who, in certain definite cases, are under obligation to carry out certain civic duties, should at the same time be exempt from carrying out certain other civic duties.

Syria

18. Forced labour for normal civic obligations should be required in the following order of priority: (1) from persons who have no occupation at the date of the requirement; (2) from persons who exercise work incompatible with the work required; (3) from persons who normally carry out the same work or who are prepared to carry out such work, in order to respect the principle of the liberty to choose a normal occupation; (4) forced labour should not be required again of persons who have already accomplished such work, except after a period of at least one year from the date of completing the previous period of forced labour.

U.S.S.R.

18. The basic limitations and safeguards to be applied to the work of persons called upon for work forming part of normal civic obligations have been indicated in the replies to questions 11, 12 and 15.

Yugoslavia

18. It is necessary to provide for limitations, since the equality of citizens enjoying the same rights must be maintained.

V. Work or Service Exacted as a Consequence of a Conviction in a Court of Law

General observations on this part of the questionnaire were submitted by certain governments; these are reproduced below.

Cuba

Work exacted as a consequence of a conviction in a court of law should remain outside the scope of the Convention.

Finland

Before replying to the questions in this part, the Government of Finland deems it necessary to state the modifications which have recently been made to the legislation relating to the carrying out of court sentences. In Finland the system of penal sanctions still exists, according to which a guilty person is condemned,
accord­ing to the nature of his offence, to a prison sentence or to forced labour. The sentence is carried out in the prison, where the convicted person works for the profit of the State and the product of his work belongs to the State. However, a small sum, proportionate to his product, is given to a prisoner who works well and whose behaviour is good, and the prisoner can use a portion of this amount. In prisons work is carried out for public corporations but orders from private persons are also received.

The changes recently made to the legislation permit the carrying out of penal sanctions in work colonies, or in colonies of prisoners established outside prisons.

A work colony is an establishment where prisoners sentenced to short terms of imprisonment, or those who must undergo a short imprisonment for failure to pay fines imposed on them, are placed.

Persons sentenced to lengthy sentences of fixed duration may be placed in the colonies of prisoners towards the end of their period of detention.

In these two types of colonies prisoners can be required to carry out work not only on behalf of the State and of the communes but also for private individuals and companies (for example, certain work relating to the cutting of wood and to sylviculture). Persons placed in these colonies are not, however, put at the disposal of private individuals or of companies, but the work is carried out on the basis of agreements reached between the public authority (the prison service) and the private employer. The private employer has the right to direct this work, but his representative is subject to the right of decision of the public authority in so far as the supervision and the maintenance of order are concerned.

JAPAN

For the purpose of eliminating undue restriction of freedom, as well as forced or compulsory labour exacted on the ground of the decision of a perfunctory trial, it is desirable to provide universal principles regarding fair trial.

However, the right of punishment is inherent to the nation, and the matter is closely related to the moral sense of a people; therefore the suitability of imposing various restrictions such as those stated in question 20, clauses (e) to (h), by an international instrument, on a nation’s criminal policy which is within the purview of each nation’s jurisdiction, cannot be decided easily.

In relation to the improvement of criminal policy, there exist the International Penal and Penitentiary Foundation, the United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and so forth, where special studies are earnestly carried on, and the outcome of some of these studies has already been reflected in the criminal systems of many countries. Japan has long been a member of these international organisations, and studies in this field have recently been commenced in Japan with a view to revising the prison law. However, as the matter involves not a few special technical phases, Japan expects much help from the results of studies made by such organisations as those mentioned above.

Consequently Japan, though not strongly against the points specified in clauses (e) to (h) of question 20, has some doubt as to the desirability of providing them in an international instrument.

In connection with question 7 and with Part V of the questionnaire, reference is made to the observations on question 11 (b).

PORTUGAL

The existing text states that forced labour shall not include "any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations". It is considered that this text is sufficiently clear and does not necessitate the insertion of the additional conditions proposed. The Government’s reply to question 19 is accordingly in the negative and no reply to question 20 is therefore called for.
FORCED LABOUR

U.S.S.R.

There is no objection to a provision in the instrument to the effect that no work or service should be exacted as a consequence of a conviction in a court of law unless the conditions specified in question 20 have been fulfilled. It should also be provided that the work or service exacted should, as a rule, be in keeping with the trade of the person concerned.

19. If provision is made for an exception in respect of work or service exacted as a consequence of conviction in a court of law, do you consider that the proposed instrument should provide that no work or service should be exacted from any persons as a consequence of a conviction in a court of law unless certain specified conditions are fulfilled?

Thirty-four governments replied to this question. Twenty-seven (those of Australia, Austria, Ceylon, Colombia, Costa Rica, Denmark, Dominican Republic, Finland, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Lebanon, Mexico, Netherlands, New Zealand, Norway, Pakistan, Peru, Philippines, Sweden, Switzerland, Syria and Turkey) replied in the affirmative, and one (Burma) in the negative without comment. The Government of the United Kingdom dealt with questions 8 to 22 in a single reply. The replies of the other governments are reproduced below.

EGYPT

19. Yes, certain conditions should be specified in order to avoid abuse, humiliation and exhaustion.

HONDURAS

19. It is considered that the provision suggested in this question might conflict with national criminal legislation which already prescribes the conditions in which court verdicts become valid.

ITALY

19. It is unquestionably necessary to require convicted persons to work, this being considered to have an educational as well as a disciplinary effect. This view was confirmed by the delegates from all countries who attended the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which was held in Geneva from 21 August to 3 September 1955. Assuming that the work is exacted as a result of conviction in a court of law it clearly cannot be imposed in any arbitrary and unrestricted manner. The answer to this question is therefore in the affirmative.

JAPAN

19. Yes. See general observations.1

YUGOSLAVIA

19. The conditions of work or service required from an individual as a consequence of conviction in a court of law should be exactly specified.

1 See above, p. 45.
20. If your reply to question 19 is in the affirmative, do you consider that the specified conditions should include the following:

(a) that the person concerned has been convicted as the result of regular, fair and reasonably expeditious legal proceedings before an independent tribunal in the course of which he has been informed in advance of the charges against him and has had full opportunity for calling evidence and defending himself against the charges, and appropriate facilities for appeal;

(b) that the offence of which the person concerned has been convicted is one for which work or service may be exacted as a penalty under the law of the State concerned;

(c) that the offence consists of an overt act or an omission to perform a specific legal duty, or a series of such acts or omissions, and is not deduced from presumed or expressed opinions or alleged associations of the persons concerned;

(d) that the offence of which the person concerned has been convicted was an offence at the time of its commission;

(e) that the work or service exacted is carried out under the supervision and control of a specified public authority and that no person concerned may be placed at the disposal of private individuals, companies or associations;

(f) that the work or service exacted conforms to the provisions of regulations enacted by the appropriate authority prescribing health and safety precautions, the measures to be taken in the event of sickness or injury, hours of work and rest periods and any appropriate remuneration;

(g) that the work or service exacted is not of such a character as to compete with free labour in such a manner as to prejudice or impair the employment opportunities or conditions of work of such labour;

(h) that any commodities which may be produced through such work or service shall not be made available for sale in such a manner as to compete unfairly with commodities produced by free labour?

The Government of Burma points out that since its reply to question 19 is in the negative, question 20 is not applicable. This is also true for the Governments of Cuba and Portugal. The Government of Yugoslavia states that the instrument should cover the measures provided for in all the clauses of question 20, and the Government of Switzerland is in agreement in principle with the conditions suggested in these clauses. The Government of the United Kingdom dealt with questions 8 to 22 in a single reply. The Governments of Honduras, Lebanon and the Netherlands submit general observations on this question as a whole, which are given below. The replies from the other governments are grouped under the different clauses of the question.
HONDURAS

The conditions suggested in (a) to (d) are found, with very few exceptions, in the penal codes, while those suggested in (e) to (h) appear in almost all prison regulations.

LEBANON

As far as Lebanon is concerned the practice of forced labour as it is understood in other countries does not exist. However, the law provides that forced labour may be imposed on a certain category of convicted persons. This measure is only applied at present in the principal prison called the “Prison des Sablons”; it is at present confined to woodworking, etc.

NETHERLANDS

In reply to the various points in this question, it is necessary first of all to recognise that, even if the procedure satisfies all the conditions which must be laid down in a democratic State, this would still not constitute any guarantee against the sentencing of great numbers of people to forced labour. This depends on the definition of the offences and the penalties provided. The importance of the definition of offences may be realised by examining, for example, the vague and elastic definitions of offences and the great number of minimum penalties which figure in articles 58 and 59 of the Russian Penal Code. If the Convention is to be drafted so that it will exclude such a definition of offences, this would, in fact, imply an attempt to transform a totalitarian régime into a democratic one. This would take one into the field of the Universal Declaration of Human Rights. The replies to the various clauses of this question are made subject to these remarks.

Clause (a)

Twenty-eight governments replied to the question contained in this clause. Twenty-three (those of Austria, Ceylon, Colombia, Denmark, Dominican Republic, Egypt, Finland, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Lebanon, Mexico, Norway, Pakistan, Peru, Philippines, Sweden, Syria and Turkey) replied in the affirmative. The replies of the other governments are reproduced below.

AUSTRALIA

20. (a) Yes. Of the international instruments referred to on pages 23 and 24 of Report VI (1), article 14 of the Draft Covenant on Civil and Political Rights 1 sets out most completely the requirements of natural justice as they are

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1 All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and public may be excluded from all or part of a trial for reasons of morals, public order or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the Court in special circumstances where publicity would prejudice the interest of justice; but any judgment rendered in a criminal case or in a suit at law shall be pronounced publicly except where the interest of juveniles otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

(Footnote continued opposite)
understood in Australian law, and the incorporation of a similar text in the present proposed instrument would be preferred. However, if that article is considered too lengthy, it is suggested that the following interpolations be made in clause (a) of question 20:

(1) after “legal proceedings” insert “which shall, subject only to exceptions specified by law, be held in public”;
(2) after “independent” insert “legally competent and impartial”;
(3) after “tribunal” insert “which has been established by law”.

**Costa Rica**

20. (a) Yes. The Political Constitution of Costa Rica provides in article 39: “No one shall suffer a penalty unless he has committed a crime, quasi-crime or act of negligence which is punishable under an existing law and by virtue of a final judgment pronounced by a competent authority, after the accused has been given an opportunity of defending himself and the necessary proof of guilt has been furnished.”

**Italy**

20. (a) Every safeguard should be provided to ensure that the procedure is properly conducted and impartial, that the tribunal is independent, that the accused is informed of the charges against him and that he has full opportunity for defending himself and for lodging an appeal.

**Japan**

20. (a) Yes. The points mentioned are considered as a matter of course in the criminal procedure. The Code of Criminal Procedure of Japan satisfies all of the requirements specified.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly in a language which he understands and in detail of the nature and cause of the accusation against him;
(b) To have adequate time and facilities for the preparation of his defence;
(c) To defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case where he does not have sufficient means to pay for it;
(d) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
(e) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
(f) Not to be compelled to testify against himself, or to confess guilt.

3. In the case of juveniles, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

4. In any case where by a final decision a person has been convicted of a criminal offence and where subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly-discovered fact shows conclusively that there has been a miscarriage of justice, the person who had suffered punishment as a result of such conviction shall be compensated unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.
Netherlands

20. (a) Yes. It would be desirable to add publicity to the conditions to which the penal procedure should conform. It would also be desirable to indicate expressly that threats and violence against the prisoner during the preliminary investigation of a case should be forbidden, and that the interrogation should not be carried out in such a way as to exhaust the prisoner.

Clause (b)

Twenty-eight governments replied to the question contained in this clause. Twenty-two (those of Australia, Austria, Ceylon, Colombia, Dominican Republic, Egypt, Finland, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Lebanon, Mexico, Pakistan, Peru, Philippines, Sweden, Turkey and Yugoslavia) replied in the affirmative. The replies of the other governments are reproduced below.

Costa Rica

20. (b) Article 1 of the Penal Code provides as follows: "Penal law shall apply only to offences described as such in legislation existing at the time of their occurrence. Consequently, penalties shall be inflicted for acts as provided for by the law and may not be imposed by reasons of analogy, equivalence or because their gravity would appear to require a more severe penalty. In the case of doubt concerning the appropriate punishment, the lesser of the penalties corresponding to the crime shall be inflicted."

The same provision lays down the principle universally admitted in penal law—and which it is advisable to enunciate in the instrument—that no person may be condemned except in respect of offences covered by existing legislation (nulla poena, nullum crimen, sine previa lege).

Denmark

20. (b) It is suggested that the paragraph should read as follows: "(b) that the offence of which the person concerned has been convicted is one for which work or service may be exacted in connection with a penalty involving deprivation of liberty under the law of the State concerned ".

Italy

20. (b) In view of the principle that work exacted as a result of a conviction in a court of law is looked upon as having educational and disciplinary value there would not appear to be any reason to restrict such work to those convicted for specified offences.

Japan

20. (b) Yes. This is an accepted principle of nulla poena sine lege, and is quite reasonable.

Netherlands

20. (b) Forced labour as a penalty is unknown in Netherlands legislation. In the countries where this penalty exists the reply should be in the affirmative.

Norway

20. (b) The expression “might be exacted as a penalty” should be changed to read “might be exacted as an enforcement measure”.
REPLIES FROM GOVERNMENTS

Clause (c)

Twenty-nine governments replied to the question contained in this clause. Twenty-three (those of Ceylon, Costa Rica, Denmark, Dominican Republic, Egypt, Finland, Hungary, Iceland, India, Iran, Iraq, Ireland, Lebanon, Mexico, Netherlands, Norway, Pakistan, Peru, Philippines, Sweden, Syria, Turkey and Yugoslavia) replied in the affirmative. The replies of the other governments, including that of Israel which dealt with clauses (c) and (d) of question 20 in a single reply, are reproduced below.

AUSTRALIA

20. (c) Yes. However, it could be pointed out that in Australia, and probably elsewhere, certain expressions of opinion and certain forms of association can be, and are, overt acts subject to legal penalty as offences.

AUSTRIA

20. (c) On the whole this question must be answered in the affirmative. The general exclusion of offences which are deduced from expressed opinions cannot be accepted, since a suitable form of punishment (even by forced labour) cannot be abandoned for such offences as slander, dangerous threats or extortion.

COLOMBIA

20. (c) The question should be put more clearly if a clear answer is to be given.

ISRAEL

20. (c) and (d) Although the principles suggested are fundamental to penal law, it is doubted whether these should be dealt with in an international Convention, the more so that the above principles, and especially the principle of no retro-activity, have sometimes to be departed from (e.g. actions against war criminals).

For achieving the object, it is suggested to state clearly in the proposed instrument that the exemptions envisaged in question 9 (b) should not apply in the case of persons referred to in question 7 (a).

ITALY

20. (c) For the same reason as that given in clause (b) there would not appear to be any reason to lay down conditions in this respect.

JAPAN

20. (c) No. It is very difficult to understand the contents of this provision from the theoretical point of view of the criminal law and the Code of Criminal Procedure, as the provision is very hazy in its meaning. If this provision is to be construed as purporting the principle of trial on evidence, it is an accepted principle. It is unacceptable, however, if this provision is to restrict the principle of trial on the judge's free discretion.

In Japan, article 317 of the Code of Criminal Procedure provides for the principle of trial on evidence by prescribing that "facts shall be found on the basis of evidence"; while article 318 of the same Code provides for the principle of trial on the judge's free discretion by prescribing that "the probative value of evidence shall be left to the free discretion of judges". These two have been established in Japan as the important principles in the law of evidence.
Clause (d)

Twenty-nine governments replied to the question contained in this clause. Twenty-six (those of Australia, Ceylon, Colombia, Costa Rica, Denmark, Dominican Republic, Egypt, Finland, Hungary, Iceland, India, Iran, Iraq, Ireland, Italy, Lebanon, Mexico, Netherlands, Norway, Pakistan, Peru, Philippines, Sweden, Syria, Turkey and Yugoslavia) replied in the affirmative. The Government of Israel dealt with clauses (c) and (d) of question 20 in a single reply. The replies of the other governments are reproduced below.

AUSTRIA

20. (d) Yes. It will be recalled, however, that at present laws with retroactive force (the War Criminals Act and the Act to Ban the National Socialist Party) still exist in Austria.

JAPAN

20. (d) Yes. This is an accepted principle in the principle of non-retroactivity of an offence. Article 39 of the Constitution of Japan provides that “no person shall be held criminally liable for an act which was lawful at the time it was committed”.

Clause (e)

Twenty-nine governments replied to the question contained in this clause. Twenty-four (those of Australia, Ceylon, Colombia, Costa Rica, Dominican Republic, Egypt, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Japan, Lebanon, Mexico, Norway, Pakistan, Peru, Philippines, Sweden, Syria, Turkey and Yugoslavia) replied in the affirmative. The replies of the other governments are reproduced below.

AUSTRIA

20. (e) It should be provided that any work or service is to be carried out only under the supervision and control of a public authority.

The requirement that no prisoner may be placed at the disposal of private individuals, companies or associations cannot, however, be laid down as a general rule. A stipulation to the effect proposed would very considerably limit the possibilities of employment for convicted prisoners, since for want of sufficient state or public orders prisoners have to be partly occupied with work for private undertakings in order to comply with their legal obligation to work. In the event of a lack of sufficient employment opportunities in establishments attached to penitentiaries, therefore, the employment of convicted offenders on work for private undertakings should also be allowed, subject to the condition, however, that this employment is under the supervision and control of a public authority.

DENMARK

20. (e) It is assumed that the term “a specified public authority” does not have reference to any special independent body but that the requirement will be met through supervision and control on the part of the central prison authorities.
It happens that prisoners committed to one of the institutions of the prison service carry out work in relays for a private employer under the supervision of the institution. However, this form of prison labour, which is carried out as piece work at the usual rates, is applied to a very limited extent only.

It also occurs that, with a view to their occupational career after discharge or for reasons of education, prisoners are placed with a private employer for training or retraining. This, too, takes place under the supervision of the institution.

These two forms of prison work are applied only subject to the consent of the prisoners concerned.

**Italy**

20. (e) It can hardly be expected that all work performed by prisoners should be done under the direction of the public authorities; moreover, if private individuals are allowed to employ convict labour this does not mean that the latter is placed at their mercy, as private individuals are also bound to abide by the law and are supervised by the authorities. It would be desirable to state that work or services exacted from convicts should be carried out under the supervision and control of a public authority.

**Netherlands**

20. (e) In the light of modern methods of rehabilitation it would be desirable to make it possible to place the prisoner with a private employer outside the prison or institution. This possibility is provided for in the Netherlands by article 32 of the law on the principles applicable to penitentiary institutions. It is therefore not possible merely to reply "yes" to this question. It goes without saying, on the other hand, that the placement of prisoners with private employers must not be used as a means of recruiting labour.

**New Zealand**

20. (e) The New Zealand Government suggests that there would need to be some clarification of the words "at the disposal of" in clause (e). A more satisfactory and precise wording would be "in the employment of". Prison authorities, in order to secure suitable employment for prisoners, sometimes enter into contracts with private individuals or other bodies to undertake particular works such as land clearing, drainage, etc. They may then allocate prisoners to this work, the prisoners remaining in the employment and under the control of the prison authorities.

**Clause (f)**

Twenty-eight governments replied to the question contained in this clause. Twenty (those of Australia, Ceylon, Colombia, Egypt, Hungary, Iceland, India, Iran, Iraq, Ireland, Italy, Lebanon, Mexico, Norway, Pakistan, Peru, Philippines, Syria, Turkey and Yugoslavia) replied in the affirmative. The replies of the other governments, including that of Israel which dealt with clauses (f) to (h) of question 20 in a single reply, are reproduced below.

**Austria**

20. (f) These principles in general have our approval. It would, however, be desirable to explain what is meant by the expression "any appropriate remuneration". If what is meant is the customary remuneration for work freely performed, the condition is unacceptable because a convict's work is not carried out in accordance with a collective agreement but for the purpose of training the offender with a view to rehabilitating him for the practice of a trade. As a rule, work done by convicts cannot be equivalent to work done under contract and therefore, in Austria,
convicts have no entitlement whatever to remuneration for work done. Prisoners are merely granted on grounds of fairness a so-called "work reward" which enables them to satisfy various minor necessities.

**Costa Rica**

20. (f) Yes. It is necessary clearly to state the obligation to enact such regulations.

**Denmark**

20. (f) Prisoners in Danish prisons receive a remuneration of two to four kroner a day which allows them to meet their personal requirements and to save up a sum for their discharge. Considering that the prisoners generally receive free maintenance, clothing, medical care, etc. and that the social legislation provides for the appropriate maintenance of their dependants, this remuneration seems adequate.

The Confederation of Danish Trade Unions has expressed the view that the instrument should contain more specific provisions as to how much work convicts should be obliged to carry out and under what conditions the work should be carried out in cases where compulsory work or service is exacted from convicts.

**Dominican Republic**

20. (f) What regulations are referred to? Is the reference to regulations laying down special measures to be applied to prisoners under sentence for an offence, or to general regulations under ordinary labour law? It does not seem possible to assimilate work performed in consequence of a sentence imposed by a court of law with completely free labour, more particularly as regards hours of work, rest periods and wages.

**Israel**

20. (f) to (h) The Government of Israel is in favour of the principles suggested; it is, however, doubted whether these should be dealt with in the proposed instrument, as a special instrument on prison labour would seem to be preferable.

**Japan**

20. (f) No. In addition to the general observations already made it is controversial whether or not convicts should be allowed the right to claim remuneration. As this problem is now under study, the Government of Japan is not in a position to express its consent to this provision.

In Japan, provisions relating to work, food and clothing, sanitation and medical care and other matters are laid down by the prison law and the enforcement regulations thereto. Convicts are given a work allowance corresponding to the results achieved by them, which is in the nature of a gratuity, but they have no right to claim such.

**Netherlands**

20. (f) Yes. To these conditions should be added the necessity for sufficient food. It is desirable to state expressly that the quantity of food furnished must not depend on the work done.

**Sweden**

20. (f) Yes. The Government presumes, however, that the words "appropriate remuneration" do not imply a comparison with wages in the open market.

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1 See above, p. 45.
Clause (g)

Twenty-nine governments replied to the question contained in this clause. Twenty-three (those of Australia, Ceylon, Colombia, Costa Rica, Dominican Republic, Egypt, Finland, Hungary, Iceland, Iraq, Ireland, Italy, Lebanon, Mexico, Netherlands, Norway, Pakistan, Peru, Philippines, Sweden, Syria, Turkey and Yugoslavia) replied in the affirmative. The Government of Israel dealt with clauses (f) to (h) of question 20 in a single reply. The replies of the other governments, including that of Austria which dealt with clauses (g) and (h) in a single reply, are reproduced below.

Austria

20. (g) and (h) This condition cannot be laid down absolutely since if that were done the purpose of the work mentioned under clause (f) could not be achieved. It should be provided, however, that when convict labour is used close attention shall be paid to the employment situation.

Denmark

20. (g) There is no denying that the production undertaken in Danish prisons has the character of competitive activity, but it amounts to so negligible a fraction of the total production as to involve no inconvenience of importance to private trade and industry. The employment of prisoners on productive work is a prerequisite for their re-socialisation. However, efforts should be directed towards a spreading of the production on different trades, which is suggested by the regard to work pedagogics and results in competition being as low as possible within the individual trade.

It is therefore suggested to modify the formulation so as to require only that the work or service exacted is not of such a character as to substantially impair the employment opportunities of the open labour market.

India

20. (g) The work or service exacted from convict labour should not ordinarily be of a character calculated to compete with free labour in such a manner as to prejudice or impair the employment opportunities and conditions of work of such free labour. But exemptions must be made with respect to convict labour employed in the normal course of prison administration, whether inside prison or outside, in such conditions as may not justifiably attract comparison with the conditions of free labour, or in implementation of progressive correctional policies recognised by international agreement for the reformation and rehabilitation of convicts by approximating their conditions to those of free labour to the maximum extent possible.

Iran

20. (g) No. This is the business of the State.

Japan

20. (g) Yes. The Government of Japan has no objection to this point, as it has already been dealt with in Japan under administrative measures.
Clause (h)

Twenty-nine governments replied to the question contained in this clause. Twenty-three (those of Australia, Ceylon, Colombia, Costa Rica, Denmark, Dominican Republic, Egypt, Finland, Hungary, Iceland, India, Iraq, Ireland, Italy, Lebanon, Mexico, Netherlands, Norway, Pakistan, Peru, Philippines, Syria and Yugoslavia) replied in the affirmative. The Government of Israel dealt with clauses (f) to (h) of question 20 in a single reply, and that of Austria with clauses (g) and (h). The replies of the other governments are reproduced below.

IRAN

20. (h) No. This is the business of the State.

JAPAN

20. (h) Yes. The contents of this provision have already been embodied in the resolution adopted by the 12th International Penal and Penitentiary Congress, held at The Hague in 1950. The Government of Japan has no objection to this point, as there exists no fact leading to unfair competition in Japan.

SWEDEN

20. (h) The principle of the regulation of this work or service in relation to the free employment market has already been laid down in clause (g). The detailed application of this principle would seem to fall outside the scope of the present international regulation. Furthermore, an acceptance of the provisions of clause (h) could create great difficulties in interpreting the word "unfairly".

TURKEY

20. (h) It would be appropriate to regulate this subject by a separate supplementary instrument.

VI. Work or Service Exacted or Performed in Circumstances of Emergency Requiring the Mobilisation of Manpower for Essential Work of National Importance

21. If provision is made for an exception in respect of work or service exacted or performed in circumstances of temporary emergency requiring the mobilisation of manpower, either generally or with reference to persons with particular qualifications, for essential work of national importance, do you consider it desirable to provide—

(a) that compulsory recruitment or direction of labour to employment for this purpose should be permissible only when the competent authority in the country concerned certifies that a national emergency of temporary character so requires and only under terms and conditions of service specified in virtue of national laws and regulations;
that the most representative organisations of employers and workers shall be consulted concerning and, so far as practicable, associated with the planning and administration of arrangements for the compulsory recruitment or direction of labour;

that the compulsory recruitment or direction of labour should, to the maximum extent possible within the limitations imposed by the emergency, take into consideration the abilities and preferences of the individual workers concerned regarding occupation and place of work;

that workers affected by the powers permitting the compulsory recruitment or direction of labour shall enjoy a right of appeal against instructions received, on the ground that acceptance of the decision would cause undue hardship to the individual;

that workers affected by the powers permitting the compulsory recruitment or direction of labour shall be guaranteed freedom of association and the right to organise in accordance with the provisions of the Freedom of Association and Protection of the Right to Organise Convention, 1948, and, subject to any special arrangements which may be necessary concerning industrial disputes, the right to organise and to bargain collectively in accordance with the provisions of the Right to Organise and Collective Bargaining Convention, 1949;

that such workers shall enjoy rates of wages, hours of work and other conditions of labour not less favourable than those prevailing in the area concerned for similar work or service;

that all appropriate and practical steps should be taken to ensure such workers any reasonable compensation necessary to reimburse expenditure falling upon them as the result of the compulsory recruitment or direction of labour;

that such workers should enjoy the right of reinstatement in their regular employment and maintenance of all other rights which had accrued in that employment, including those which would normally have accrued during the period of absence on compulsory work or service?

The Government of the United Kingdom dealt with questions 8 to 22 in a single reply. The Government of Egypt stated that it agreed to all the guarantees and conditions specified in the question. General observations submitted by certain governments on this question as a whole are reproduced below; these are followed by the replies of various other governments grouped under each clause of the question.

**Costa Rica**

It is natural that the instrument should allow or provide for an exception to the general principle in respect of the exaction and performance of forced or compulsory labour in circumstances of temporary emergency requiring the mobilisation of manpower for essential work of national importance.
It is considered that the measures contained in the clauses of this question are adequate. However, as far as clause (f) is concerned, rates of wages and hours of work might under such circumstances be less favourable than those guaranteed by social legislation for normal work, due to the very conditions of the emergency which do not admit delay or restrictions without gravely prejudicing national economy and the interests of society.

Cuba

In keeping with the fundamental notion of prohibiting all forced labour, every exception should be eliminated. It is to be supposed that in the case of an emergency and of works of public utility there would not be any difficulty in finding labour, particularly where there is considerable unemployment.

Denmark

The reply to these questions is in the affirmative, subject to the reservation that a certain limitation of the safeguards may be an inevitable consequence of the very case of emergency.

Honduras

Workers who, owing to the existence of an emergency, are forced to work for the government should be afforded every possible safeguard, and the provisions suggested in the clauses of this question would be very valuable.

Portugal

It is considered that the urgent needs that arise in cases of emergency conflict in many cases with the obligations specified here. The present text is preferable.

Switzerland

It goes without saying that if the public authorities mobilise manpower in case of a national emergency where the public interest is in danger, they should also furnish certain essential guarantees. But it is not at all sure that they will be able to ensure in every case the conditions stipulated in paragraphs (b) to (h).

U.S.S.R.

There is no objection to provision being made in the instrument for certain conditions to be observed in the mobilisation of manpower in circumstances of emergency, as listed in this part of the questionnaire.

Yugoslavia

The Government of Yugoslavia is in agreement with all the provisions proposed in this question, except clause (f), since it feels that the provisions under clause (g) are sufficient.

Clause (a)

Twenty-seven governments replied to the question contained in this clause. Twenty-two (those of Australia, Austria, Ceylon, Colombia, Dominican Republic, Finland, Hungary, Iceland, India, Iraq, Ireland, Italy, Lebanon, Mexico, Netherlands, Norway, Pakistan, Peru, Philippines, Sweden, Syria and Turkey) replied in the affirmative. The Government of Burma replied in the negative. The replies of the other governments are reproduced below.
IRAN
21. (a) Yes, except in cases where there is danger in delaying.

ISRAEL
21. (a) Yes, provided the word "direction" wherever appearing in question 21 be deleted; direction of labour, it is suggested, should be outside the scope of the proposed instrument.

JAPAN
21. (a) Yes. It would be reasonable to put the specific exceptions to the prohibition of forced labour under such conditions as are set forth in this item.

In Japan, the Disaster Relief Law of 1947, for instance, provides that the Prefectural Governor is authorised, when he deems necessary for the relief of disaster, to issue a call order to those in the medical service, civil engineering and construction or transportation services, thus making them engage in the relief work. The necessary provisions are made in the law regarding the working conditions of the persons called on such occasions to engage in relief work, including compensation in cases of accident.

NEW ZEALAND
21. (a) The addition after "only" of the words "in the defence of the country in time of war, or" would appear to be necessary. Defence measures in time of war are somewhat different from the "national emergency of temporary character" otherwise envisaged by this clause and would require therefore to be specifically covered. The suggested additional words would also require to be inserted in the main clause after the word "performed".

Clause (b)

Twenty-seven governments replied to the question contained in this clause. Twenty (those of Australia, Burma, Colombia, Dominican Republic, Finland, Hungary, Iceland, India, Iraq, Ireland, Israel, Italy, Lebanon, Mexico, Netherlands, Norway, Peru, Philippines, Sweden and Syria) replied in the affirmative. The replies of the other governments, including that of Japan which dealt with clauses (b) and (c) of question 21 in a single reply, are reproduced below.

AUSTRIA
21. (b) So far as the issuing of general instructions is concerned, the representative organisations of employers and workers should be consulted concerning, and so far as practicable associated with, the planning and administration of arrangements for the recruitment or direction of labour. With regard to the particular case of the staving off of some immediately threatening danger it will, however, often not be possible to consult the parties and associate them with arrangements made.

CEYLON
21. (b) Consultation may not be practicable in a country where there is a multiplicity of trade unions or where the trade union movement is in its infancy.

IRAN
21. (b) Yes, as far as possible.
21. (b) and (c) Yes, to the extent allowed by the circumstances. For the purpose of obtaining the positive co-operation of the persons concerned, such measures would be necessary to the extent allowed by circumstances.

NEW ZEALAND

21. (b) In this clause two suggested changes in wording would be desirable: (1) Where the emergency arises out of a strike or lockout of a kind placing the community or any section of it in danger of starvation, disease or other harm, such a provision may not be workable. From this angle the clause might be more workable if the words "shall be consulted concerning and, so far as practicable" were replaced by the words "shall be invited to confer with the appropriate authorities concerning the measures taken or proposed to be taken and, so far as practicable, shall be...". (2) In the case of rescue operations and emergencies of similar suddenness, it would often be impossible to consult with organisations beforehand, and unnecessary to consult with them afterwards. The following words should therefore be added to clause (b): "provided that operations to meet a sudden emergency need not be delayed pending consultation with such organisations."

PAKISTAN

21. (b) Yes, as far as practicable.

TURKEY

21. (b) If the nature of the circumstances of emergency permits sufficient time for holding the consultations in question, then it would be suitable to consult employers' and workers' organisations. Otherwise, if it is indispensable to take measures immediately, then the competent authority should have the power to take decisions without consultation.

Clause (c)

Twenty-seven governments replied to the question contained in this clause. Twenty-five (those of Australia, Burma, Ceylon, Colombia, Dominican Republic, Finland, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Lebanon, Mexico, Netherlands, New Zealand, Norway, Pakistan, Peru, Philippines, Sweden, Syria and Turkey) replied in the affirmative or made no comment. The Government of Japan dealt with clauses (b) and (c) of question 21 in a single reply. The reply of the remaining government—Austria—is reproduced below.

AUSTRIA

21. (c) In so far as the emergency permits, attention should be paid to these factors.

Clause (d)

Twenty-six governments replied to the question contained in this clause. Sixteen (those of Australia, Ceylon, Colombia, Hungary, Iraq, Israel, Italy,
Lebanon, Mexico, New Zealand, Pakistan, Peru, Philippines, Sweden, Syria and Turkey) replied in the affirmative or made no comment. The Government of Burma replied in the negative. The replies of the other governments are reproduced below.

**Austria**

21. (d) Yes. With regard to the avoidance of an immediately threatening danger, however, the grant of a right of appeal with delaying effect will not be possible. However, it may be assumed as a matter of course that so far as practicable immediate consideration will be given to substantial objections put forward by those affected by recruitment.

**Dominican Republic**

21. (d) Yes, but the right of appeal should not suspend the operation of the decision.

**Finland**

21. (d) Yes, on condition that the appeal does not prevent the carrying out of the decision at least until the authority to which the appeal has been made has decided otherwise.

**India**

21. (d) The ground on which appeals could be made, viz. "undue hardship to the individual", is very vague. The right of appeal should be allowed under specified conditions laid down by the competent authority.

**Iran**

21. (d) Yes, with an accelerated procedure.

**Ireland**

21. (d) In principle this provision seems reasonable and, where the circumstances in which manpower might be mobilised would be of such nature and duration as to permit of the conditions being operated, it is agreed that it could be accepted. It is, however, easy to visualise circumstances of sudden or short-term emergency, e.g. civil defence work following air raids, in which the application of conditions such as this would not be feasible. It is suggested, therefore, that, as in clause (c), the qualifying phrase "to the maximum extent possible within the limitations imposed by the emergency" should be included.

**Japan**

21. (d) No. "Undue hardship" alone does not clarify the limits which justify an appeal. If the expression "undue hardship" is accepted, the existence of a system to relieve from unlawful disposition would be sufficient, in view of the nature of the work or service concerning which the order has been issued.

**Netherlands**

21. (d) Taking into account the fact that the work imposed in the conditions envisaged in this paragraph will mean hardship in general, it would be desirable to provide that an appeal may be made to the chief of the person who took the decision in question if such decision causes undue hardship, subject to the reservation that the appeal does not suspend the execution of the decision.
FORCED LABOUR

Norway

21. (d) Yes, as far as possible.

Clause (e)

Twenty-seven governments replied to the question contained in this clause. Eighteen (those of Austria, Colombia, Dominican Republic, Finland, Hungary, Iceland, India, Iran, Italy, Lebanon, Mexico, Netherlands, Norway, Peru, Philippines, Sweden, Syria and Turkey) replied in the affirmative. The replies of the other governments, including that of Israel which dealt with clauses (e) to (h) of question 21 in a single reply, are reproduced below.

Australia

21. (e) The Australian Government agrees that such workers (except those compulsorily recruited or directed into the armed forces) should be guaranteed freedom of association and the right to organise and, subject to any special arrangements which may be necessary concerning industrial disputes, the right to organise and to bargain collectively. However, it does not agree that these rights should be expressed in terms of the Conventions listed, as some member States may not be able or willing to ratify them, and such a situation could inhibit their ratification of the present proposed instrument.

Burma

21. (e) Yes, subject to any enactment that may be made because of the emergencies that have arisen.

Ceylon

21. (e) The deletion of this clause is suggested. Countries which find it impossible to ratify the two Conventions mentioned will be obliged to oppose the proposed instrument.

Iran

21. (e) Yes, if the duration of the work required in circumstances of emergency exceeds two months.

Ireland

21. (e) See reply to clause (d) of this question. It might be preferable to delete clause (e) entirely, since it appears to assume that States which adopt or ratify the proposed instrument will have already ratified Conventions Nos. 87 and 98, which will not necessarily be the case.

Israel

21. (e) to (h) The principles suggested, although generally acceptable, require many qualifications in view of the complexity of the problems involved, and it is doubted whether the proposed instrument should deal with details of work performed in circumstances of national emergency. The problems involved require special study and consideration, and a separate instrument on the matter would seem desirable.
JAPAN

21. (e) Yes. In Japan, however, there is little need for the establishment of such a provision, the reason for which is as follows. In Japan it is only in cases of sudden disasters and other exceptional cases of a special nature that such work or service as is mentioned in question 21 is exacted; in such cases it is not considered that employment relationships are established between those who offer their services and those who receive the services. In addition, such work or service offered resembles in most cases that of the police being directed towards the maintenance of social order or, if not, the offer of work or service is of a temporary and short-term nature. So far as Japan is concerned, therefore, there seems to be little need to provide, in an international instrument, for the guarantee of these various rights in such cases as stated above.

NEW ZEALAND

21. (e) The New Zealand Government would be unable to agree with the provisions of this clause. It may not be applicable or workable in the case of a strike or lockout of the kind mentioned in the comment on clause (b) above. Moreover, in New Zealand the workers concerned would continue to be members of their appropriate trade unions and those trade unions would continue to act on their behalf in all such respects. During the war years 1942 to 1945, when large numbers of workers were under compulsory direction, they continued to be members of the appropriate existing trade unions. It is unlikely that the trade union movement in New Zealand would agree that the existence of a temporary emergency should confer a right to break up existing trade union organisation by presenting an opportunity for new overlapping unions to form.

The clause might be applied only to workers not members of trade unions or not remaining members of trade unions during the emergency, and where the trade unions were not safeguarded by a ratification of the Freedom of Association and Protection of the Right to Organise Convention, 1948.

PAKISTAN

21. (e) Yes, subject to the special measures that may be evolved to deal with industrial and labour disputes.

Clause (f)

Twenty-six governments replied to the question contained in this clause. Fifteen (those of Australia, Burma, Ceylon, Colombia, Finland, Hungary, Iceland, Iran, Iraq, Italy, Lebanon, Mexico, Netherlands, Peru and the Philippines) replied in the affirmative. The Government of Ireland referred to its reply to clause (d). The Government of Israel dealt with clauses (e) to (h) in a single reply. The replies of the other governments are reproduced below.

AUSTRIA

21. (f) Those affected should in all cases be guaranteed the wage rate paid for similar work or services. In connection with the recruitment of workers to cope with a national calamity, it will, on the contrary, not always be possible to offer the same hours of work and other conditions of labour as are generally customary. It may be pointed out in this connection that in the Austrian regulations on hours of work provision is made for such cases and that under the Workmen's Protection (Building) Order the supervisor may, for the purpose of avoiding an immediately threatening or already existing danger to life or limb for the workers, make arrangements which depart from the provisions of the Order.
FORCED LABOUR

Dominican Republic

21. *(f)* It would seem difficult to provide that workers should enjoy certain conditions, such as hours of work, rest periods, etc. when their labour or services are being required because of an emergency. In any case this is a point which should be discussed at the 39th Session of the International Labour Conference.

India

21. *(f)* Yes. The rates of wages should not also be lower than those earned by the workers at the time of mobilisation.

Japan

21. *(f)* Yes, in such cases where employment relations exist. It is not reasonable to impose unfair working conditions on the grounds of emergency.

New Zealand

21. *(f)* The New Zealand Government is of the opinion that the provisions of this clause as they stand would not be workable. For example, in, say, an acute flood or earthquake emergency it would be impossible to provide the conditions of normal employment and it would be futile to legislate that such conditions must apply. Similarly, the normal hours of work may also not be practicable in emergencies.

The clause might be reworded to read:

"*(f)* as far as the circumstances of the emergency permit, such workers shall enjoy... Any special rates, hours, or conditions to apply during the emergency should be determined in consultation with the most representative organisations of employers and workers."

Pakistan

21. *(f)* No, except for wages, as it may not be possible to have other conditions of labour similar to those prevailing in the area concerned for similar work or services during an emergency.

Sweden

21. *(f)* It would not seem possible fully to comply with these requirements under the conditions referred to in Part VI. In the opinion of the Swedish Government rates of wages, hours of work and other conditions of labour under these exceptional conditions cannot be related to "those prevailing in the area concerned for similar work or service". The Government feels that a more flexible wording would be necessary and would suggest that a provision which in the future Convention would correspond to this point should be approved on the following lines:

"*(f)* that such workers shall enjoy rates of wages, hours of work and other conditions of labour which are fair in view of the circumstances."

Syria

21. *(f)* Yes, with the addition of the words "as far as possible" after the word "enjoy".

Turkey

21. *(f)* Yes, but because of the nature and objective of the work exacted, conditions of labour to be adopted should not be more favourable than those prevailing in the area concerned for similar work or service.
**Clause (g)**

Twenty-six governments replied to the question contained in this clause. Twenty-two (those of Australia, Austria, Burma, Ceylon, Colombia, Dominican Republic, Finland, Hungary, Iceland, India, Iran, Iraq, Ireland, Italy, Lebanon, Mexico, Netherlands, Norway, Pakistan, Peru, Sweden and Turkey) replied in the affirmative. The Government of Israel dealt with clauses (e) to (h) of this question in a single reply. The replies of the other governments are reproduced below.

**Japan**

21. (g) Yes. In Japan, for instance, the Disaster Relief Law (article 24, paragraph 5), provides, *inter alia*, that the Prefectural Governor should reimburse the actual expenses which have been disbursed by those engaged in the work of disaster relief.

**New Zealand**

21. (g) This clause appears to require further clarification of the term "expenditure falling upon them". There may be direct expenditure such as the cost of travel or purchase of suitable work clothing or replacement of clothing damaged during emergency operations. The worker should be reimbursed for such direct expenditure. The position is not so clear regarding indirect costs such as extra living costs for a married man required to reside away from his family, or for a single man previously living at home and now required to pay for lodging; or the costs incurred by a married man in revisiting his family at reasonable intervals. It is possible that special rates for the emergency work might take into account such factors, or alternatively that a standard allowance might be fixed. The clause might be redrafted to read:

"(g) that provision shall be made to ensure that there is reasonable compensation to workers for extraordinary expenditure necessarily falling upon them where this is not taken into account in the rate of wages and allowances applying to the emergency work ".

**Philippines**

21. (g) Yes, because it may happen that a worker may be forced to incur expenses by reason of the work to be performed by him, as in the case of transfer away from his usual home. It will be just, right and fair to compensate him for his expenses incurred by reason of the compulsory labour.

**Clause (h)**

Twenty-six governments replied to this question. Twenty-one (those of Burma, Ceylon, Colombia, Dominican Republic, Finland, Hungary, India, Iran, Iraq, Ireland, Italy, Lebanon, Mexico, Netherlands, New Zealand, Pakistan, Peru, Philippines, Sweden, Syria and Turkey) replied in the affirmative or stated that they had no comments to make. The Government of Israel dealt with clauses (e) to (h) of this question in a single reply. The replies of the other governments are reproduced below.
Australia

21. (h) Whilst this may be desirable, it is not difficult to envisage cases where reinstatement and maintenance of accrued rights would be impossible. Allowance should be made for such circumstances.

Iceland

21. (h) Yes, as far as possible.

Japan

21. (h) Yes. There is no reason why such a worker should personally bear the disadvantages incurred from his engagement in forced or compulsory labour, as in the case of the expenditure mentioned in clause (g).

Norway

21. (h) Yes, as far as possible, but conditions in the undertaking or industry concerned may have changed considerably while the worker was absent and a reservation covering this possibility should therefore be made in the text of the instrument.

22. Do you consider it desirable to provide for any further limitations or safeguards in respect of the compulsory recruitment or direction of labour in circumstances of emergency requiring the mobilisation of manpower for essential work of national importance?

Thirty-two governments replied to this question. Eighteen (those of Burma, Ceylon, Denmark, Egypt, Hungary, Iceland, India, Iran, Iraq, Ireland, Italy, Mexico, Netherlands, Pakistan, Peru, Philippines, Syria and Turkey) replied in the negative. The Government of the United Kingdom dealt with questions 8 to 22 in a single reply. The replies of the other governments are reproduced below.

Australia

22. In the case of a worker directed to distant work whose accommodation is dependent upon his employment at a certain undertaking, provision should be made for accommodation of his family, either in their usual or in alternative accommodation, until such time as he is able to return to his former position.

Colombia

22. It would be very useful if some examples could be given of circumstances of emergency requiring the mobilisation of manpower for essential work of national importance, so that possible abuses could be avoided.

Czechoslovakia

22. In respect of the compulsory recruitment or direction of labour in circumstances of national emergency requiring the mobilisation of manpower for essential work of national importance, we recommend that this be done always in co-operation with the trade union organisations, particularly in respect of questions concerning the housing and labour conditions of such workers.
FINLAND

22. With regard to persons transferred to another locality in order to carry out forced labour, it might also be provided that lodging and facilities for meals should be furnished to them in conditions which are hygienically satisfactory.

HONDURAS

22. The provisions suggested in the previous question afford sufficient safeguards for the workers who are obliged to give their services in cases of emergency requiring mobilisation of manpower for essential work of national importance.

ISRAEL

22. It should be provided that work or services should not be imposed on any person in circumstances envisaged in question 21 because of his race, colour, language, religion, social origin or political views.

JAPAN

22. No. It is sufficient for an international instrument to provide for general conditions which are normally foreseeable. The above various provisions seem sufficient to cover recruitment of labour under circumstances of emergency, which are normally foreseeable in Japan.

NEW ZEALAND

22. Workers should be adequately covered by workers' compensation.

NORWAY

22. The following condition for using compulsion should also be specified under the preceding question: "The emergency must be of such a character that it cannot be met by using manpower on a voluntary basis".

SWEDEN

22. The limitations referred to in points 15 to 17 above should, where applicable, be taken into consideration in this connection.

SWITZERLAND

22. The authorities should undertake to end the exceptional measures taken as soon as the danger of the emergency which gave rise to these exceptional measures has ceased.

U.S.S.R.

22. It should also be provided that, in the mobilisation of manpower, account should be taken of the state of health, age and family circumstances of the persons mobilised; that persons disabled at work in circumstances of emergency, and, in the event of their death, disabled members of their families, should be provided for by the social security authorities; and finally that all the working and living conditions of persons mobilised for work of national importance in circumstances of emergency should be agreed upon with the workers' occupational organisations.

YUGOSLAVIA

22. It is necessary to provide all the limitations and guarantees concerning the mobilisation of manpower, namely social insurance, fixed working hours, paid overtime, rest, etc.
VII. Further Exceptions

23. Do you consider it desirable to make provision for any further exceptions—

(a) of a permanent character;
(b) of a transitional character?

24. If so, what limitations or safeguards would you suggest in respect of such exceptions?

Almost all governments replied to these two questions in the negative or refrained from making any proposals. The Government of Norway alone made certain observations, which are reproduced below.

NORWAY

23. No other exceptions are suggested. It is assumed that the use of forced or compulsory labour as a means of recovering maintenance allowances for children should not be included in the scope of the instrument where the forced or compulsory labour is exacted as a consequence of conviction in a court of law or of an administrative decision, and even if the use of forced or compulsory labour is not to be regarded as a penalty. The same applies to alcoholics who are placed in an institution and who are there under compulsion to work.
CHAPTER II

COMMENTS AND PROPOSED CONCLUSIONS

This chapter presents analytical comments and the proposed Conclusions submitted by the Office on the basis of the replies of governments to the questionnaire.

General Observations

There are certain features in the replies of governments which must be particularly borne in mind in considering the following analysis and which the Office has had to take into account in formulating the proposed Conclusions. The first is that there is a remarkable degree of unanimity on the need for a new international instrument to cover forms of forced labour which are excluded from the scope of the Forced Labour Convention, 1930, and in particular those forms to which attention was drawn in the report of the Ad Hoc Committee on Forced Labour. Secondly, the great majority of the countries which replied to the questionnaire consider that the new instrument should take the form of a Convention as the most effective means of achieving the end in view.

There is, however, one important cleavage of opinion which has a bearing on the form of presentation of the proposed Conclusions. Out of 70 States Members, 35 indicate that they would favour an instrument covering all or most of the points dealt with in the questionnaire. This group includes a number of European countries, several countries of Latin America and the Middle and Far East, and the U.S.S.R. A smaller group, including the Governments of Canada, the Federal Republic of Germany, the Union of South Africa and the United Kingdom, supported in less absolute terms by the Governments of Ceylon and New Zealand, considers that the new instrument should be restricted to dealing with the three types of forced labour referred to in questions 7 (a), (b) and (c) of the questionnaire (or in some cases 7 (a) and (b) only). There are some indications that certain other governments have sympathy for this point of view, since they refer to question 7 as an important element in the new instrument (Austria, Costa Rica, Honduras). The views of 26 governments are not known, since no replies have been received; this group includes Argentina, Belgium, Brazil, Byelorussia, Chile, China, France, Poland, Ukraine and the United States. As there are so many governments, including some of the states of chief indus-
trial importance, which have not so far made known their views, it is necessary to weigh very carefully the pros and cons of the different forms which the proposed Conclusions might take.

The governments which wish to restrict the proposed instrument to the types of forced labour referred to in question 7 point out that if the new instrument goes beyond this the attention of the Conference will be distracted from the main object, which is to abolish forced labour as a means of political coercion or for economic purposes. As there is virtually unanimous support for the adoption of measures to abolish these particular forms of forced labour, this view seems to deserve careful consideration.

The replies of governments further suggest that there is a general desire (voiced, for example, by Switzerland) that any proposals which may be adopted by the Conference should be such as to command the widest possible measure of support. In these circumstances the Conference may deem it wise to approach the matter in such a way as to secure the fullest possible support for its decisions. It would seem that this support could be ensured by aiming at a Convention on the subject matter of question 7 and a Recommendation on most of the remaining points. It may be useful to show how nearly unanimous is the agreement on question 7. The following countries favour the inclusion in a Convention of the three types of forced labour mentioned in that question (with a reservation in some cases as to the definition of "labour discipline" and a few proposals for minor amendments or additions): Australia, Austria, Burma, Canada, Ceylon, Colombia, Costa Rica, Czechoslovakia, Denmark, Dominican Republic, Egypt, Finland, Federal Republic of Germany, Honduras, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Japan, Lebanon, Mexico, Netherlands, New Zealand, Norway, Pakistan, Peru, Philippines, Portugal, Sweden, Switzerland, Union of South Africa, U.S.S.R., United Kingdom and Yugoslavia. (The latter Government, however, considers it undesirable to restrict the Convention to these particular types of forced labour.) Hungary, Syria and Turkey also support the inclusion of these points in the proposed instrument, although they suggest that it should be a Recommendation. It therefore seems that a Convention covering question 7 is certain to be widely supported, and this would be an important first step. In the proposed Conclusions, therefore, a Convention on these particular types of forced labour has been suggested.

There does not seem to be such universal agreement on the other points in the questionnaire, and therefore Conclusions designed to serve as a basis for a Recommendation have been proposed. If the Conference should think that some at least of these points are nevertheless suitable for a Convention and are assured of widespread acceptance, it would always be possible to transfer any particular items from one instrument to the other. If, for example, it were felt that work or service forming part of normal civic obligations or work or service exacted as a consequence of a conviction in a court of law could be dealt with by a Convention, whereas work or service exacted
in circumstances of emergency would be less appropriate for Convention treatment just because of the emergency character of the work, the line of demarcation between the Convention and the Recommendation could be adjusted accordingly. The important thing is to ensure that whatever is in the Convention is assured in advance of the fullest possible acceptance. The Conference might therefore wish to weigh very carefully the expediency of attempting to include in the Convention anything that might preclude complete agreement.

With this end in view the Office has drawn up the proposed Conclusions in two parts. Part A is designed as the basis for a Convention, Part B as the basis for a Recommendation.1

I. Form of the International Instrument

Questions 1 to 3

All the governments which replied to these questions favour the adoption of a new international instrument dealing with forced labour practices which are excluded from the scope of the Forced Labour Convention, 1930, or to which attention was drawn by the Ad Hoc Committee on Forced Labour. As was pointed out in the general observations above, however, there are two schools of thought as to the precise scope of the new instrument. There is no need to repeat the conflicting views here.

As regards the form of the proposed instrument, all governments except those of Hungary, Syria and Turkey favour a Convention. The Governments of Syria and Turkey consider that a Recommendation would be more appropriate. The Government of Hungary shares this preference, but would not oppose a Convention if the debates in the Conference should indicate that this type of instrument would be more desirable.

Most of the governments, except those favouring a Recommendation (for which the question did not arise), indicate that, if the terms of the new Convention were satisfactory, they would be prepared to recommend ratification to the appropriate authority. The Governments of Australia and Canada refer to their federal constitutions, which make it impossible to reply to the question until the scope of the instrument is decided upon.

In view of the near unanimity of the replies regarding the form of the instrument, the proposed Conclusions suggest that there should be a Convention (A, Point 1), the scope of which might be limited to three forms of forced labour or extended to cover certain other types of work or service, and also a Recommendation (B, Point 1).

1 The corresponding points in the proposed Conclusions are indicated at the end of the analysis of the replies to each question, preceded by the letter A or B as the case may be.
II. Definition of Forced Labour

Questions 4 and 5

It is indicated in Chapter I of the present report that a number of governments suggested amendments to the definition of forced labour contained in the Convention of 1930. However, if the Conference accepts the proposals aiming at a short Convention and a Recommendation, the question of definition would not arise. Consequently, the proposed Conclusions make no mention of this point.

If, however, the Conference decides to propose a Convention covering all the points in the questionnaire, it will no doubt wish to give consideration to the various suggestions made for changes in the definition. The most far-reaching of these is made by the Government of the U.S.S.R. (supported by some other governments) which suggests that practices analogous to forced labour may arise as a result of the economic dependence of the worker on the employer, discrimination in employment and limitations on the right to strike. Other governments express doubts about the term "under the menace of any penalty" and suggest that forms of pressure other than the threat of a penalty may also be used to compel a person to engage in forced labour. The Government of the Netherlands considers it sufficient to say that the person concerned has not offered himself voluntarily, as this implies some form of pressure or menace of a penalty, but the Government of Israel would delete the reference to voluntary action on the grounds that a person under threat or pressure cannot exercise his free will.

III. Scope

Question 6

All the governments which replied to this question, except that of New Zealand, are agreed that the proposed instrument should place on record the general principle that no one shall be required to perform forced or compulsory labour.

The Government of New Zealand does not consider this to be an appropriate statement of principle for the proposed instrument. It is not acceptable in the case of military service, for example. It seems illogical to state a general principle and then reduce it to limited application by subsequent provisions. The Government therefore proposes the following: "That no one shall be required to perform forced or compulsory labour as a means of political coercion or education, or as a punishment for holding or expressing political views, or as a normal method of mobilising labour for purposes of economic development, or as a means of labour discipline".
The Government of the U.S.S.R. proposes that the new instrument should contain a statement as follows: "Every Member of the International Labour Organisation ratifying this Convention shall undertake within the shortest time commensurate with the legislative procedure obtaining in the country concerned to prohibit the application of all forms of forced labour, whether open or concealed, and to take effective measures to secure their rapid and practical abolition. The competent authority in each country shall determine the forms of supervision to be exercised to ensure compliance with the relevant legislative provisions and shall institute strict criminal liability for any person in charge of any body, institution or undertaking or any private individual guilty of committing an infringement or of aiding or abetting an infringement of the said provisions."

As there is almost universal support for the view that the proposed instrument should lay down a general principle, but as on the other hand the suggestion is that there should be a Convention dealing only with certain forms of forced labour, it may be useful to consider an adaptation of the proposal of the Government of the U.S.S.R. This is in line with the view of the United Kingdom and other governments that there should be an unqualified obligation to abolish forced labour. The proposed Conclusions therefore suggest that every country which ratifies should undertake to secure the immediate and complete abolition of the forced labour practices here considered. (A, Point 3.)

Question 7

It is recalled that the Governments of Canada, the Federal Republic of Germany, the Union of South Africa and the United Kingdom suggest that the International Labour Conference concentrate on the types of forced labour mentioned in question 7, subject, in the case of the Government of the Union of South Africa, to a clarification of the term "labour discipline". The Governments of Ceylon and New Zealand also tend to favour this point of view.

All the governments which replied to this question, except that of Yugoslavia, agree that the proposed instrument should specify more particularly the types of forced labour mentioned in question 7, though several suggest modifications. The Government of Yugoslavia feels that it is necessary to specify every other known form of forced labour, particularly those indicated in the report of the Ad Hoc Committee on Forced Labour. If this is not done, and if the enumeration is limited to the three types mentioned in question 7, the Government of Yugoslavia feels that an undesirable political character would be given to the instrument at the expense of its human and social character.

The Government of Denmark, while agreeing to clause (c), suggests that this should be subject to the exceptions provided for in the ordinary cases of detention imposed in accordance with article 5 of the European Convention
for the Protection of Human Rights and Fundamental Freedoms, adopted by the Council of Europe on 4 November 1950.¹

The Government of Iran suggests the addition of two other clauses, namely "(d) any methods capable of restricting the liberty of the individual; (e) any other forced labour practices mentioned in the report of the Ad Hoc Committee".

The Government of Israel suggests that the wording of clause (b) is too wide and proposes the following wording: "(b) that forced or compulsory labour as a regular method of mobilising labour for economic purposes, on a scale constituting an important element in the economy of the country, should be abolished".

The Government of Sweden suggests in connection with clause (a) that the same protection which is granted for political beliefs should also be secured for religious beliefs and for racial origins. It therefore proposes that the last phrase of the clause should read: "... or expressing political or religious views or on account of racial origin should be abolished in all cases". The same Government also suggests that the word "normal" should be deleted from clause (b).

The Governments of Japan and of Switzerland feel that the term "labour discipline" should be clarified.

¹ This article reads as follows:

" (1) Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

(a) the lawful detention of a person after conviction by a competent court;

(b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

(d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;

(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;

(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

(2) Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

(3) Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

(4) Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

(5) Everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation."
The Government of the U.S.S.R. suggests that any further clarification of the principle stated in respect of question 6 should not affect the general nature of that principle. It proposes that the following be added to clause (a):

"The expression ‘political views’ shall not be taken to mean appeals to subversive and treacherous acts, the advocacy of national and racial hatred, envy and contempt or propaganda in favour of war.” The Government further proposes that the instrument should state that forced or compulsory labour for the benefit of private individuals, companies or associations should be abolished in all cases.

These are only isolated suggestions for amendments or additions to the text. It will be for the Conference to consider whether any of them should be adopted. In particular, the Conference may wish to give consideration to the possibility of defining “labour discipline.” (A, Point 2.)

Question 8

All the governments which replied to this question agree that military service and work exacted instead of compulsory military service from conscientious objectors should remain outside the scope of the proposed instrument.

As the question does not arise if the proposals for a brief Convention and a Recommendation are accepted, this point has not been dealt with in the proposed Conclusions.

Question 9

All the governments which replied to this question, except those of Colombia and Honduras, agree to the desirability of providing for the exceptions suggested. The Government of Colombia is opposed to clause (c).

The Government of Austria feels that general terms such as “normal civic obligations” should be avoided as far as possible, for the value of the proposed instrument would be enhanced if its terms were exactly defined and understood. It also stresses the importance of appropriate safeguards and limitations in respect of the exceptions proposed in clauses (b) and (c). The Government of Burma also emphasises the importance of appropriate safeguards and limitations with respect to clause (c), and suggests that the term “emergency” should be more carefully defined. The Government of Czechoslovakia favours exceptions, provided they are strictly defined and subject to appropriate guarantees and limitations.

The Government of Finland suggests that the meaning of “court of law” in clause (b) should be clearly specified.

The Government of Honduras does not consider that the exception envisaged in clause (b) should be included unless due safeguards are specially embodied in national legislation.

The Government of New Zealand points out that the use of already mobilised military personnel is an important factor in dealing with emergency
situations and this matter does not appear to be covered by either Parts III or VI of the questionnaire. It therefore proposes the addition of a clause as follows: "(d) in respect of the use of persons undergoing full-time military training or military service in emergency work of a non-military character necessary to rescue individuals or communities from any peril they are in or to protect them from any sudden threat to their welfare ".

All the above suggestions are made by single governments and have accordingly not been taken into account in the proposed Conclusions at this stage. *(B, Point 2.)*

**Question 10**

Three governments have suggestions to offer regarding further exceptions to work or service exacted for purposes other than those already covered. The Government of New Zealand proposes the services imposed by a tribal organisation or an indigenous community on its members in accordance with established custom. (The Government of Egypt makes the same suggestion in answer to question 12.)

The Government of Norway suggests that the Conference should consider to what extent civil defence services of a non-military character and service in the police force should come under the provisions laid down in questions 8 and 9. It points out that training for service of this type will have to be compulsory even in times of peace.

The Government of Switzerland suggests that it would be desirable to provide a special clause covering any unexpected cases which might arise.

The Government of Portugal assumes that the term "normal civic obligations" covers the "general obligation to work" which is incumbent on all persons, and which is referred to in the report of the *Ad Hoc* Committee.

The proposed Conclusions have not taken account of these isolated suggestions, which the Conference may wish to consider.

**IV. Work or Service Forming Part of Normal Civic Obligations**

**Questions 11 and 12**

All the governments which replied to question 11 agree on the desirability of the provisions mentioned therein, except the Government of Finland which is not convinced that these are necessary.

The Government of Italy, while agreeing to the proposals, suggests that the matter should be regulated by national legislation and not left to the discretion of local bodies.

The Government of Japan points out that if the words "in all cases" are retained in question 7 *(a)*, then clause *(b)* of question 11 is redundant.
If clause (b) is retained, the Government feels that a similar provision should be inserted in Part V.

The Government of Portugal proposes the addition of the word “directly” towards the end of clause (a) so that it would read: “... upon the population or community directly concerned, as a whole”.

In regard to clause (b) the Government of Sweden refers to its reply to question 7(a) suggesting the extension of protection in respect of religious views and racial origins. It suggests a rewording of clause (b).

The Government of the U.S.S.R. states that the instrument should provide that work can be considered as a part of normal civic obligations only where the obligation to perform such work rests upon all members of the adult able-bodied population of the country, area or locality, irrespective of their property status, race, nationality or religion, education, and so on. In such cases the competent authority should determine the system and scale of remuneration payable for the work and other conditions of employment, and should also provide that persons called upon to perform compulsory labour forming part of normal civic obligations must have the right to retain their previous employment, together with their previous conditions of employment.

The Government of Czechoslovakia also wishes to add to clause (a) the words: “regardless of race, religion, nationality, education, property, et al.”

The Government of Portugal does not consider it appropriate to specify all the types of work or service which should not be considered as forced labour, as there might be a risk of omission. The same reason makes it undesirable to list all types of work that may be considered as part of normal civic obligations.

Four governments have further suggestions to make. The Government of Austria suggests that every type of permissible work or service should be accurately listed. The Government of Egypt suggests the addition of work or service exacted as a tribal customary obligation. (This is a point made by the Government of New Zealand as well, in its reply to question 10.) The Government of Hungary reserves the right to submit proposals later on.

The Government of Israel suggests that work or service instead of paying taxes or dues destined to finance the operations listed in question 13 should not be regarded as excluded from a prohibition of forced or compulsory labour on the ground that they form part of normal civic obligations. The Government of Yugoslavia feels that unnecessary details should be avoided. However, in answer to question 7, it had suggested that the proposed instrument should prohibit all possible types of forced labour and should not be limited to types referred to in the report of the Ad Hoc Committee on Forced Labour or other generally known types of forced labour. Hence, exclusions corresponding to some of the additional types of forced labour to be defined under question 7 should be provided for here, but the Government of Yugoslavia did not put forward concrete suggestions.
Questions 13 and 14

The majority of governments which replied to these questions agree that the work or services described in question 13 should be regarded as part of normal civic obligations, but the Governments of Ceylon and Iran do not accept this view.

The Government of Austria favours a stricter definition of normal civic obligations, since otherwise there is a risk that the real purpose of the proposed instrument will be nullified. The Government of Hungary also considers that a more detailed definition is called for. The Government of Italy sees some risk of abuses in the interpretation of the term "improvement of local utilities and amenities", but it makes no proposals for a change. The Government of Costa Rica urges that the list given should be exhaustive, whereas the Government of Norway presumes that the list is not intended to be exhaustive and that the inclusion of other items, such as jury service, would be permissible. The Government of Portugal, on the other hand, believes that it is a mistake to list examples, as there must always be a danger of omission. The Governments of Czechoslovakia and the U.S.S.R. agree that the types of work enumerated can be considered as normal civic obligations provided they are required by law from all members of the able-bodied population irrespective of race, religion, nationality, education, property status and so on.

Very few governments wish to specify any other types of work or service to be regarded as forming part of normal civic obligations. The Government of Egypt wishes to limit the number of additions, and the Government of Hungary stresses that all items listed must be very carefully defined. The Governments of New Zealand and the U.S.S.R. suggest that the destruction of agricultural pests be provided for, and the latter further suggests including epidemic and epizootic diseases.

In considering these proposals, the Conference may wish to bear in mind that the corresponding provision in the Forced Labour Convention, 1930, refers to "fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests". In the meantime the proposed Conclusions reproduce the wording of the questionnaire. (B, Point 4.)

Questions 15 and 16

All the governments which replied to these questions, except that of Yugoslavia, agree that it would be desirable for the proposed instrument to
limit the duration and extent of forced labour forming part of normal civic obligations.

The Government of Yugoslavia states that wherever forced labour is permitted by law as a part of normal civic obligations its duration and extent should be limited by this same law. These limitations depend on local conditions and it would therefore be inappropriate for the proposed instrument to cover this point.

Most of the governments which add comments to their replies point out that it would be difficult in practice to place specific limitations on the duration or extent of this type of labour. They agree, however, that it should be of short duration and limited strictly to the immediate exigencies and should not encroach unduly on the individual's private life and leisure.

No attempt has been made, therefore, to suggest any specific limits in the proposed Conclusions. The principle of limitation is maintained, but it will be for the Conference to decide whether this should be done by national laws or regulations or otherwise and whether it is possible to fix any firm limits. (B, Point 5.)

All governments except those of Austria, Israel, the Netherlands and Norway agree that the proposed instrument should provide for a limitation on the extent to which work involving the transfer of workers from their homes may be regarded as a normal civic obligation. The Government of Austria is opposed to any limitation and states that in the exceptional cases in which work can be exacted as a normal civic obligation no limitation should be placed on it. The Government of Israel is also opposed to such a limitation but states that if proper wages are not paid then transportation and, if necessary, suitable board and lodging, should be provided. The Government of Honduras feels that this practice should be limited to the minimum.

The Government of the Netherlands states that work involving the transfer of workers from their homes should not be considered as part of normal civic obligations. The Government of Norway also wonders whether forced labour involving the transfer of workers from their homes should not be prohibited completely, though it feels that it would be difficult to apply such a prohibition to all forms of normal civic obligations. It suggests that the limitation of such work be left to national legislation.

The Government of New Zealand feels that there should be a prohibition against the transfer of workers except for a short period at a time. The Government of the U.S.S.R. suggests that work requiring the transfer of persons from their homes should be limited, and should be permitted only where such work cannot be done by the local population, and where any failure to do it as a matter of urgency may have adverse effects on the life of all or part of the population.

The Governments of Denmark, Egypt, Portugal and Switzerland point to the difficulty of defining an appropriate limit in the instrument. The Government of Egypt proposes that the period for which a person is away
from his home should not exceed a fixed maximum. The Government of Yugoslavia feels that measures which would take workers away from their homes should be limited to exceptional cases provided for by law.

Here again, the proposed Conclusions merely state the general principle which seems to be generally acceptable. (B, Point 6.)

**Question 17**

All the governments which replied to this question agree that the instrument should provide for exemption from forced labour forming part of normal civic obligations on grounds of age and disability.

While some governments incline towards defining grounds for exemption through national legislation, a large number wish to include in the instrument a third category of persons to be exempted, namely pregnant women. There is evidence of a widespread desire to protect mothers and young children, but proposals for exemption range from nursing mothers to mothers of children under six years of age, while some governments adopt an even more general approach by proposing exemption for any person who is alone responsible for the support and maintenance of a family.

Another category of persons which in the eyes of some governments should qualify for exemption is that of persons already carrying out certain civic duties or performing, either in a public capacity or otherwise, services essential to the community.

Some governments also suggest grounds for exemption which would come under the broad heading of disability, such as sickness or impairment of mental faculties.

With respect to age, some governments feel that very young people should be exempted as well as old persons, but the only concrete proposal is that of the Government of Yugoslavia, which suggests the exemption of young persons under 14, men over 60 and women over 50 years of age.

In the light of these comments it has seemed appropriate to provide in the Conclusions for the exemption of pregnant women and nursing mothers, as well as sole breadwinners. (B, Point 7.)

**Question 18**

The majority of governments which replied to this question have no further limitations or safeguards to suggest. The Government of Egypt feels that room should be left for such limitations or safeguards whenever they appear appropriate to the competent authority. The Government of Finland is of the opinion that it might be desirable to include the need to maintain the families of those performing forced labour. The Government of Japan feels that provision should be made for compensation in cases of accident. The Government of Norway suggests that the instrument might stress the
need for distributing civil obligations equally in practice. The Government 
of Syria suggests an order of priority for different categories of persons who 
might be called upon to perform forced labour.

As these are isolated suggestions there does not appear to be any justifi­
cation for including them in the proposed Conclusions at this stage.

V. Work or Service Exacted as a Consequence of a 
Conviction in a Court of Law

Questions 19 and 20

All the governments which replied to these questions, except those of 
Burma, Cuba and Portugal, consider that the proposed instrument should 
provide that no work should be exacted from persons as a consequence of a 
court conviction unless certain specific conditions are fulfilled. The Govern­
ment of Australia suggests incorporating in the text of the instrument a form 
of words similar to that of article 14 of the Draft Covenant on Civil and 
Political Rights. Failing that, it proposes certain interpolations which are 
referred to under question 20 (a). The Government of Cuba feels that work 
performed as a consequence of a court conviction is outside the scope of the 
Convention. The Government of Portugal is of the opinion that the clause 
relating to this question in the Convention of 1930 is sufficient and no addi­
tional conditions are necessary.

The Government of Japan, though agreeing that it is desirable to make 
provision for a fair trial, thinks that the right of punishment is an inherent 
right of a nation and doubts the suitability of including provisions envisaged 
in question 20, clauses (e) to (h), in an international instrument.

The Government of the Netherlands points out that, even if all the condi­
tions suggested in the clauses of question 20 were accepted, it would still not 
provide a complete guarantee against forced labour. Everything depends 
on the definition of offences and the penalties provided for them. The 
Government states that to attempt to draft the Convention in such a manner 
that it would exclude the possibility of an unduly elastic definition of the 
offences covered would in fact be an attempt to transform a totalitarian 
régime into a democratic one, and would take one into the field of the Universal 
Declaration of Human Rights.

The Government of the U.S.S.R. suggests that the instrument should 
also provide that the work or service exacted should, as a rule, be in keeping 
with the trade of the person concerned.

Question 20 (a)

All the governments which replied to this question are in favour of these 
provisions. The Government of Australia suggests inserting after “legal
proceedings" the words "which shall, subject only to exceptions specified by law, be held in public". After "independent" it would add "legally competent and impartial", and after "tribunal" it proposes inserting "which has been established by law". The Government of the Netherlands suggests that one of the conditions should be that the hearings be public. It also states that the clause should expressly forbid threats or violence during the preliminary investigation of a case and that the interrogation should not exhaust the prisoner.

*Question 20 (b)*

The Government of Denmark proposes the deletion of the words "as a penalty" and the substitution of the phrase "in connection with a penalty involving deprivation of liberty".

*Question 20 (c)*

The majority of governments which replied to this question are in agreement with this clause. The Government of Austria makes certain reservations as it feels that the general exclusion of all acts or omissions which are deduced from expressed opinions would involve the abolition of suitable forms of punishment for offences such as slander, threats and extortion.

The Government of Colombia suggests that the clause be clarified.

The Government of Israel, in replying to clauses (c) and (d), doubts whether these matters should be dealt with in an international Convention. It suggests that the proposed instrument state that the exemptions envisaged in question 9 (b), namely those relating to work exacted in consequence of a court conviction, should not apply to persons referred to in question 7 (a), which suggests that forced labour as a means of political coercion or education or as a punishment for holding or expressing political views should be abolished.

The Government of Japan is opposed to these provisions as they are not clear. If they restrict the judge's discretion in evaluating evidence submitted in the course of trial then they are unacceptable.

*Question 20 (d)*

The majority of governments which replied to this question are in favour of the provision in clause (d). The Government of Costa Rica in its reply to clause (b) had also supported this provision. The Government of Israel doubts whether it is suitable for an international Convention and points out that the principle of retroactivity has sometimes to be departed from as, for instance, in the case of war criminals.
The majority of governments which replied to this question are in favour of these provisions. The Governments of Austria and Italy state that, while agreeing that prison work must be carried out under the supervision of a public authority, they do not feel that a prisoner should never be placed at the disposal of private individuals or companies. Such a stipulation would limit the employment possibilities for prisoners, and they should be allowed to work for private undertakings provided that this is done under public supervision.

The Government of the Netherlands points out that, according to modern methods of rehabilitation, it is desirable to enable prisoners to work with private employers, though this should not be used as a means of recruiting labour.

The Government of New Zealand proposes that the words “at the disposal of” should be replaced by “in the employment of”. It points out that prison authorities sometimes enter into contracts with private individuals or companies to undertake particular works by prisoners, who perform them under the supervision of the prison authorities.1

Most of the governments which replied to this question agree to the inclusion of the provisions envisaged, though the Government of Japan is opposed to them as it feels that a convict’s right to remuneration is controversial. The Governments of Austria, Denmark and Sweden refer to the question of “appropriate remuneration”. The Government of Austria points out that prison labour cannot be assimilated to free labour and the remuneration must therefore be different. The Government of Sweden presumes that “appropriate remuneration” does not imply a comparison with wages in the open market, and the Government of Denmark appears to share this view.

The Government of the Dominican Republic asks whether “regulations” refer to special regulations or ordinary labour legislation. It also agrees that prison work cannot be assimilated to free labour.

1 The First United Nations Congress on the Prevention of Crime and the Treatment of Offenders (22 August-3 September 1955) examined the question of prison labour. It felt that in certain cases it was desirable to enable prisoners to work for private employers. The following extract from its conclusions is relevant to this question:

“Convention concerning forced or compulsory labour, 1930

In any revision of this Convention, and particularly with respect to Article 2, paragraph 2, the Congress wishes to point out the desirability of excluding from the definition of forced labour the employment of selected prisoners by private employers or public enterprises outside the prison in such ways as are likely to assist their rehabilitation, subject always to such safeguards in respect of wages and conditions of work as are necessary to prevent exploitation, this practice being an essential element in a rational penal policy.”
The Government of Israel feels that clauses (f) to (h), though containing desirable provisions, might preferably form part of a separate instrument on prison labour.

The Government of the Netherlands proposes that the provision of sufficient food should be added to the conditions mentioned in the clause, and that it be clearly stated that the quantity of food given to prisoners should not depend on the amount of work done.

Question 20 (g)

Most of the governments which replied to this question agree to the inclusion of the provisions suggested, except the Government of Iran which feels that this matter is the responsibility of the State.

The Governments of Austria and India do not think that this condition can be laid down absolutely but suggest that it might be provided that, when convict labour is used, close attention should be paid to the employment situation.

The Government of Denmark proposes that the provisions be amended to state that prison labour should not be such as to impair employment opportunities on the open labour market.

The Government of Israel feels it might be preferable for this provision to be contained in a separate instrument on prison labour.

Question 20 (h)

Most of the governments which replied to this question agree to the inclusion of the provisions suggested, except the Government of Iran which feels that this matter is the responsibility of the State.

The Government of Austria does not think that this condition can be laid down absolutely, but suggests that it might be provided that, when convict labour is used, close attention should be paid to the employment situation.

The Government of Israel feels that this provision might preferably form part of a separate instrument on prison labour. The Government of Turkey also states that it would be appropriate to regulate this subject by a separate supplementary instrument.

The Government of Sweden points out that the relation to free employment has already been provided for in clause (g). The detailed application of this principle appears to fall outside the scope of the present international instrument. The Government feels, moreover, that the interpretation of the word "unfairly" would give rise to difficulties.

The only item in this section on which there appears to be a marked difference of opinion is the question whether prison labour should be placed at the disposal of private individuals, companies or associations. A clause
prohibiting this has been provisionally included in the proposed Conclusions; the Conference will doubtless wish to discuss the question in the light of the views expressed. *(B, Point 8 (2) (a).*)

VI. Work or Service Exacted or Performed in Circumstances of Emergency Requiring the Mobilisation of Manpower for Essential Work of National Importance

*Question 21*

The Government of Cuba states that in order to prohibit all forced labour every exception should be eliminated. It presumes that in the case of an emergency it would not be difficult to find labour, especially where there is unemployment.

The Government of Denmark agrees with the provisions proposed subject to the reservation that as an inevitable consequence of the particular emergency to be dealt with there might have to be a certain limitation of the safeguards proposed.

The Government of Israel proposes that the word "direction" should be deleted from the clauses of question 21 wherever it occurs; direction of labour should be outside the scope of the proposed instrument.

The Government of Portugal also points out that the needs arising from an emergency may in many cases conflict with the safeguards proposed. It therefore feels that the text on this matter contained in the Forced Labour Convention, 1930, is preferable.

*Question 21 (a)*

All the governments which replied to this question, except that of Burma, agree with the proposals made. The Government of Iran agrees except in those cases where there may be a danger in delay.

The Government of New Zealand proposes to add the words "in the defence of the country in time of war or" after the word "only". It points out that defence measures in wartime are somewhat different from the "national emergency of temporary character" otherwise envisaged.

*Question 21 (b)*

All the governments which replied to this question agree to this provision, but some of them have hesitations about its practicability. The text of the proposed Conclusions follows the questionnaire in using the expression "so far as practicable". This view would therefore seem to be met. *(B, Point 9 (b).)*
The Government of New Zealand proposes two changes. Firstly, it points out that when an emergency arises out of a strike or lockout which places the community in danger of starvation, disease or other serious harm, such consultations may not be practicable. It therefore proposes to amend the phrase reading “shall be consulted concerning and, so far as practicable” to read “shall be invited to confer with the appropriate authorities concerning the measures taken or proposed to be taken and, so far as practicable, shall be . . . “. Secondly, the Government points out that in the case of rescue operations and sudden emergencies it would often be impossible to hold the consultations proposed. It therefore proposes to add to clause (b) the words “provided that operations to meet a sudden emergency need not be delayed pending consultation with such organisations”.

There are no other proposals to this effect.

Question 21 (c)

All the governments which replied to this question agree with this provision. The Governments of Austria and Japan point out that attention should be paid to these factors to the extent permitted by the emergency.

Question 21 (d)

All the governments which replied to this question agree with this provision except those of Burma and Japan. The Government of Japan feels that the term “undue hardship” is not sufficiently clear. The Governments of Austria, the Dominican Republic, Finland and the Netherlands suggest that the right of appeal should not suspend the operation of the decision. The Government of Iran suggests an accelerated procedure. The Government of Ireland points out that in some cases such as civil defence work following air raids such conditions might not be practicable. It proposes that the qualifying phrase “to the maximum extent possible within the limitations imposed by the emergency” should be added. The Government of Norway also suggests a similar qualification.

The Government of India feels that the grounds for appeal are vague, and should be laid down with greater precision by the competent national authority.

Only a few governments suggest that the right to appeal should not prevent the operation of the decision appealed against; the Conference may wish to give consideration to this suggestion, which has not been included in the Conclusions. (B, Point 9 (d).)

Question 21 (e)

Most of the governments which replied to this question agree with the principle of the proposals made, but those of Australia, Ceylon, Ireland and
New Zealand have certain doubts as to the practical consequences. The Governments of Australia and Ceylon suggest the deletion of this clause, as countries which find it impossible to ratify the two Conventions mentioned would be obliged to oppose the proposed new instrument or would be unable to ratify it. The Government of Ireland also feels it might be preferable to delete this clause since it appears to assume that States which adopt the new instrument will already have ratified the two Conventions mentioned.

The Government of New Zealand points out that the provisions of this clause may not be workable in the case of strikes or lockouts which seriously endanger a community. It also feels that in New Zealand workers mobilised for an emergency would continue to be members of their trade unions and the trade union movement itself would be unlikely to agree to provisions enabling the formation of overlapping unions.

The Government of Burma is in agreement, subject to any enactment that may be made because of the emergency that has arisen. The Government of Iran suggests that these provisions should apply in circumstances where an emergency exceeds two months. The Government of Israel feels that the provisions, though generally acceptable, raise many complex problems which require qualification and that these problems might preferably be dealt with in a separate instrument. The Government of Pakistan agrees to these provisions subject to any special measures that may be evolved to deal with industrial and labour disputes.

The proposed Conclusions reproduce the text of the questionnaire, but the Conference may wish to give consideration to the view that this provision might adversely affect the possibilities of ratification if it were included in a Convention. *(B, Point 9 (e).)*

**Question 21 (f)**

A number of the governments which replied to this question make certain reservations regarding the practicability of the provision envisaged in this clause. The Government of Yugoslavia is opposed to it since it feels that the provision contained in clause *(g)* is sufficient.

The Government of Austria thinks that in certain cases of emergency it will not be possible to offer the same hours of work and other conditions of labour as are generally customary. The Government of Pakistan also agrees that, except for wages, conditions of work may have to be different during an emergency. The Governments of Costa Rica, the Dominican Republic and Ireland also feel that it might be difficult to provide workers in an emergency with the same conditions as obtain normally. The Government of Ireland suggests the qualifying phrase: “to the maximum extent possible within the limitations imposed by the emergency”.

The Government of Israel is of the opinion that these provisions raise complex questions and that the matter might be more appropriately dealt
with in a separate instrument. The Government of New Zealand feels that the provisions are not workable and this would be particularly so in the case of a sudden emergency. It proposes that the clause be amended to read: "as far as the circumstances of the emergency permit such workers shall enjoy . . . . Any special rates, hours or conditions to apply during the emergency should be determined in consultation with the most representative organisations of employers and workers."

The Government of Sweden also finds the provisions unworkable and proposes a more flexible wording such as: "that such workers shall enjoy rates of wages, hours of work and other conditions of labour which are fair in view of the circumstances". The Government of Syria proposes the addition of the words "as far as possible" after "enjoy". The Government of Turkey points out that conditions of labour should not be more favourable than those prevailing in normal circumstances.

The Conference will doubtless wish to give due consideration to the view that it may not prove practicable in the case of an emergency to apply strictly some of the conditions of work normally prevailing. (B, Point 9 (f).)

Question 21 (g)

Most of the governments which replied to this question agree to this provision. The Government of Israel refers to the complex questions raised by the proposals and suggests that these might more appropriately be dealt with in a separate instrument.

The Government of New Zealand feels that the term "expenditure falling upon them" requires clarification. It points out that there may be direct or indirect expenditures. The workers should be reimbursed for direct expenditure. To cover indirect costs it may be possible to ensure special rates of pay, or alternatively a standard allowance. It proposes that the clause might be redrafted to read: "that provision shall be made to ensure that there is reasonable compensation to workers for extraordinary expenditure necessarily falling upon them where this is not taken into account in the rate of wages and allowances applying to the emergency work".

This isolated proposal has not been taken into account in the proposed Conclusions, but the Conference may wish to consider it in taking a decision. (B, Point 9 (g).)

Question 21 (h)

Most of the governments which replied to this question agree to the provisions suggested in this clause. The Government of Israel refers to the complex issues raised by these proposals and suggests that it might be preferable to deal with this question in a separate instrument.

The Government of Norway points out that conditions in the industry concerned may have changed considerably during the worker's absence and a
reservation covering this possibility should be inserted in the text. The Government of Australia also points out that in certain cases reinstatement and maintenance of rights may be impossible.

Question 22

Various governments make proposals in reply to this question, while others refer to proposals they made in reply to previous questions.

The Government of Australia considers that when a worker is directed to work far from his home appropriate provision should be made for the accommodation of his family. The Government of Colombia suggests that it would be useful if some examples of circumstances of emergency could be given. The Government of Finland proposes that provision might also be made for lodging and facilities for meals where workers are transferred to another locality.

The Government of Israel suggests that work should not be imposed on any person in circumstances of an emergency because of his race, colour, language, religion, social origin or political views. The Government of New Zealand proposes that workers should be adequately covered by workmen's compensation. The Government of Norway suggests that the emergency must be of such a character that it cannot be met by using manpower on a voluntary basis. The Government of Switzerland states that the authorities should undertake to end the special measures as soon as the emergency has passed.

The Government of the U.S.S.R. suggests that, in the mobilisation of manpower, account should be taken of the state of health, age and family circumstances of the persons mobilised; that persons disabled at work in circumstances of emergency, and, in the event of their death, disabled members of their families, should be provided for by the social security authorities; and finally, that all the working and living conditions of persons mobilised for work of national importance in circumstances of emergency should be agreed upon with the workers' occupational organisations. The Government of Yugoslavia feels it is necessary to provide all normal guarantees such as social insurance, fixed working hours, paid overtime, rest, etc.

These again are isolated proposals by individual governments, and it has accordingly not been possible to include any of them in the proposed Conclusions.

VII. Further Exceptions

Questions 23 and 24

No further exceptions are suggested.
PROPOSED CONCLUSIONS

A. CONCLUSIONS DIRECTED TOWARDS A CONVENTION

I. Form of the International Instrument

1. The instrument should take the form of a Convention.

II. Scope

2. The proposed Convention should provide that no person shall be required to perform forced or compulsory labour—
   
   (a) as a means of political coercion or education or as a punishment for holding or expressing political views;
   
   (b) as a normal method of mobilising labour for purposes of economic development; or
   
   (c) as a means of labour discipline.

3. The proposed Convention should provide that every Member of the International Labour Organisation which ratifies it should undertake to take effective measures to secure the immediate and complete abolition of such forced labour.

B. CONCLUSIONS DIRECTED TOWARDS A RECOMMENDATION

I. Form of the International Instrument

1. The instrument should take the form of a Recommendation.

II. Scope

2. The instrument should prescribe the restrictions to be imposed when recourse is had to forms of work or service which are excluded from the scope of the Forced Labour Convention, 1930, in virtue of Article 2, paragraph 2 (b), (c) and (d) of that Convention, namely:

   (a) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
   
   (b) any work or service exacted from any person as a consequence of a conviction in a court of law;
   
   (c) any work or service exacted in circumstances of emergency requiring the mobilisation of manpower for essential work of national importance.
III. Work or Service Forming Part of Normal Civic Obligations

3. No work or service should be considered as forming part of normal civic obligations—

(a) unless the obligation to perform such work or service rests, subject to such exceptions as may be provided for by law, upon the population or community concerned as a whole;

(b) if it is used as a means of political coercion or education or as a punishment for holding or expressing political views;

(c) if it is inconsistent with the principle of freedom of choice of normal occupation.

4. Work or service of a local character required by law or recognised custom from the population or community concerned as a whole for the maintenance of communications, the preservation of food supplies, the provision of water supply, protection against fire, flood, avalanche or any similar calamity, and the maintenance or improvement of local utilities and amenities, may be regarded as a part of normal civic obligations.

5. The duration or extent of forced or compulsory labour forming part of normal civic obligations should be limited to what is strictly necessary for the purpose in view.

6. Work which requires the transfer of workers from their homes may be regarded as a normal civic obligation but should be limited to exceptional cases and to the shortest period in keeping with the circumstances.

7. The following classes of persons should be exempt from forced or compulsory labour forming part of normal civic obligations:

(a) the aged;

(b) the disabled, either mentally or physically;

(c) pregnant women and nursing mothers;

(d) sole breadwinners.

IV. Work or Service Exacted as a Consequence of a Conviction in a Court of Law

8. Work or service exacted as a consequence of a conviction in a court of law should conform to the following conditions:

(1) Such work or service should be authorised only if—

(a) the person concerned has been convicted as a result of regular, fair and reasonably expeditious legal proceedings before an independent tribunal in the course of which he has been informed in advance of the charges against him and has had full opportunity for calling evidence and defending himself against the charges and has had appropriate facilities for appeal;

(b) the person concerned has been convicted of an offence for which work or service may be exacted as a penalty under the law of the State;
(c) the offence consists of an overt act or an omission to perform a specific legal duty or a series of such acts or omissions and is not deduced from presumed or expressed opinions or alleged associations of the person concerned;

(d) the offence of which the person concerned has been convicted was an offence at the time of its commission.

(2) The work or service should be carried out under the following conditions:

(a) it should be carried out under the supervision and control of a specified public authority and the person concerned should not be placed at the disposal of private individuals, companies or associations;

(b) it should conform to the provisions of regulations enacted by the appropriate authority prescribing health and safety precautions, the measures to be taken in the event of sickness or injury, hours of work and rest periods and any appropriate remuneration;

(c) it should not be of such a character as to compete with free labour in such a manner as to prejudice or impair the employment opportunities or conditions of work of such labour;

(d) any commodities which may be produced through such work or service should not be made available for sale in such a manner as to compete unfairly with commodities produced by free labour.

V. Work or Service Exacted or Performed in Circumstances of Emergency Requiring the Mobilisation of Manpower for Essential Work of National Importance

9. Work or service exacted or performed in circumstances of emergency requiring the mobilisation of manpower for essential work of national importance should conform to the following conditions:

(a) compulsory recruitment and direction of labour to employment for this purpose should be permissible only when the competent authority in the country concerned certifies that a national emergency of temporary character so requires and only under terms and conditions of service specified in virtue of national laws and regulations;

(b) the most representative organisations of employers and workers should, so far as practicable, be consulted concerning and associated with the planning and administrative arrangements for the compulsory recruitment or direction of labour;

(c) the compulsory recruitment or direction of labour should, to the maximum extent possible within the limitations imposed by the emergency, take into consideration the abilities and preferences of the individual workers concerned regarding occupation and place of work;

(d) workers affected by the powers permitting the compulsory recruitment or direction of labour should enjoy a right of appeal against instructions received on the ground that compliance with the instructions would cause undue hardship to the individual;
(e) workers affected by the powers permitting the compulsory recruitment or direction of labour should be guaranteed freedom of association and the right to organise in accordance with the provisions of the Freedom of Association and Protection of the Right to Organise Convention, 1948, and, subject to any special arrangements which may be necessary concerning industrial disputes, the right to organise and to bargain collectively in accordance with the provisions of the Right to Organise and Collective Bargaining Convention, 1949;

(f) such workers should enjoy rates of wages, hours of work and other conditions of labour not less favourable than those prevailing in the area concerned for similar work or service;

(g) all appropriate and practical steps should be taken to ensure such workers any reasonable compensation necessary to reimburse expenditure falling upon them as the result of the compulsory recruitment or direction of labour;

(h) such workers should enjoy the right of reinstatement in their regular employment and maintenance of all other rights which had accrued in that employment, including those which would normally have accrued during the period of absence on compulsory work or service.
APPENDIX

REPLIES OF THE GOVERNMENTS OF NETHERLANDS ANTILLES AND SURINAM

(Forwarded by the Government of the Netherlands)

NETHERLANDS ANTILLES

1. It is positively desirable to continue the efforts to restrain forced labour.
2. The obvious form for an instrument on this matter is a Convention.
3. Yes.
4. Yes.
5. No.
6 to 9. Yes.
10. Yes. The cases where labour must be performed on medical advice, for the restoration of bodily or mental health (labour therapy).
11. Yes.
12. No, not necessary.
13. Yes.
14. No.
15 and 16. Yes.
17. (a) Yes.
    (b) This kind of labour should be prohibited for women.
18. Yes, both for a certain period of the day as for a number of days per annum.
19 and 20. Yes.
21. (a) to (d) Yes.
    (e) It is very well conceivable that, in case of emergency, these rights must, just for that reason, be suspended.
    (f) to (h) Yes.
22. No.
23 and 24. See the answer to question 10.

SURINAM

1. If the Forced Labour Convention, 1930, is considered inadequate, a new international instrument will be necessary.
2. In the case of forced labour, a Convention would appear to be preferable.
3. Yes.
4. The opinion of the Ad Hoc Committee would appear to be sound.
5. No.
6. Yes.
7. (a) In principle, no.
   (b) and (c) Yes.
8 and 9. Yes.
10. No.
11. Yes.
12. As yet, we have no opinion on this point.
13. The work referred to here can in certain cases be considered as forming part of normal civic obligations.
14. As yet, we have no opinion on this point.
15. Yes.
16. No.
17. (a) Yes.
   (b) No opinion.
18. As yet, we have no opinion on this point.
19. Yes.
20. No objection to these provisions.
21. These provisions appear to be highly desirable.
22. Yes.
23. No.