Sixth Item on the Agenda:

FORCED LABOUR
# CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td>Chapter I: Recent International Action on Forced Labour</td>
<td>3</td>
</tr>
<tr>
<td>Chapter II: Analysis of the Questionnaire</td>
<td>15</td>
</tr>
<tr>
<td>Questionnaire</td>
<td>28</td>
</tr>
</tbody>
</table>
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 (1956) Session of the International Labour Conference, to be dealt with under the double-discussion procedure. It also approved a list of points on which governments should be consulted with regard to a new international instrument on the subject.

In accordance with the Standing Orders of the Conference this preliminary report is being circulated so as to reach governments not less than 12 months before the opening of the 39th Session of the Conference on 6 June 1956. It contains a brief outline of the events and discussions which led to the placing of this item on the agenda, so that the governments may be informed of the context in which this question has arisen. A questionnaire and an analysis of the points with which it deals are also included.

Article 39 of the Standing Orders states that—

The replies of the governments should reach the Office as soon as possible and not less than eight months before the opening of the session of the Conference at which the question is to be discussed. In the case of federal countries and countries where it is necessary to translate questionnaires into the national language the period of four months allowed for the preparation of replies shall be extended to five months if the government concerned so requests.

It is therefore requested that the replies to the questionnaire should reach the International Labour Office in Geneva not later than 6 October 1955. It is also requested that, in accordance with the Standing Orders, governments give reasons for their replies.
CHAPTER I

RECENT INTERNATIONAL ACTION ON
FORCED LABOUR

The question of forced labour and its abolition has been under consideration by the United Nations and the International Labour Organisation for the past several years. A joint Ad Hoc Committee was set up by the two organisations in 1951 to conduct an impartial inquiry into the existence of systems of forced labour. The Committee submitted its report in May 1953. In this it stated that its inquiry had revealed the existence in some countries of facts relating to systems of forced labour of so grave a nature that they seriously threatened fundamental human rights and jeopardised the freedom and status of workers, in contravention of the obligations and provisions of the Charter of the United Nations.

The Governing Body considered the report of the Ad Hoc Committee and affirmed the determination of the I.L.O. to continue and intensify its efforts to bring about the abolition of forced labour practices. It decided to place the question on the agenda of the International Labour Conference with a view to the adoption of an appropriate international instrument on the subject.

The question of forced labour was raised in the first instance after the Second World War by the American Federation of Labor. In a letter dated 24 November 1947 it suggested that the Economic and Social Council of the United Nations should ask the International Labour Organisation to undertake a comprehensive survey on the extent of forced labour in all member States of the United Nations and to suggest action, including the adoption of a revised Convention and measures for its implementation, for eliminating forced labour.

In response to this request the item “Survey of Forced Labour and Measures for Its Abolition” was placed on the agenda of the Economic and Social Council. The Council considered this question at its Eighth Session in the spring of 1949 and adopted resolution 195 (VIII). This resolution requested the Secretary-General to co-operate closely with the International Labour Organisation in its work on forced labour questions, to approach all governments and to inquire in what manner and to what extent they would be prepared to co-operate in an impartial investigation into the extent of forced labour in their countries, including the reasons for which persons were made to perform forced labour and the treatment
according to them, to inform and consult the I.L.O. regarding the progress being made on this question and to report to the Council at its Ninth Session.

The Governing Body, noting this resolution at its 109th Session (Geneva, June-July 1949), emphasised that the alleged existence of forced labour in many countries was a matter of grave and widespread concern and that there should be an impartial inquiry into the nature and extent of forced labour including the reasons for which persons were made to perform forced labour and the treatment accorded to such persons. The Governing Body considered that this question was within the competence of the I.L.O. and that since it was also the concern of the United Nations there should be the closest co-operation between the two organisations in carrying out the proposed inquiry, particularly as it was desirable to include within its scope those Members of the United Nations which were not Members of the I.L.O. The Governing Body requested the Director-General of the I.L.O. to contact the Secretary-General with a view to the establishment of an impartial commission of inquiry.

The Economic and Social Council at its Ninth Session (July-August 1949) considered the communication from the Director-General and also a report from the Secretary-General in accordance with its resolution 195 (VIII). In resolution 237 (IX) the Council noted the communication from the Director-General. It considered that the replies received from governments in response to its previous resolutions did not provide conditions under which a commission of inquiry could operate effectively and it therefore requested the Secretary-General to ask governments which had not as yet stated that they were prepared to co-operate in an inquiry to consider whether they could give a reply before the next session of the Council.

At its 111th Session (Geneva, March 1950) the Governing Body considered a report from its International Organisations Committee proposing that the Governing Body, without waiting for further discussion by the Economic and Social Council, should itself establish a commission to carry out an impartial inquiry into the nature and extent of forced labour, but that the establishment of such a commission should not prejudice the possibility of setting up joint machinery with the United Nations, if the Council subsequently decided to establish a joint commission of inquiry. The Governing Body instructed the Director-General to bring the discussions which had taken place both in the International Organisations Committee and in the Governing Body itself to the attention of the Council.

When the Council met for its 11th Session in July-August 1950, it had before it, in addition to the communication from the I.L.O. mentioned above, a note from the Secretary-General concerning further replies received from governments in response to previous resolutions. It also had before it a joint draft resolution submitted by the Governments of the United
Kingdom and the United States, proposing that the Council should invite the I.L.O. to co-operate with the Council in the earliest possible establishment of an Ad Hoc Committee on Forced Labour of not more than five independent members, to be appointed jointly by the Secretary-General of the United Nations and the Director-General of the International Labour Office. This Committee should survey the field of forced labour, taking into account the provisions of the Forced Labour Convention, 1930 (No. 29), and should inquire particularly into the existence of systems of forced labour which were employed as a means of political coercion or which constituted an important element in the economy of a given country. After assessing the nature and extent of the problem at the present time it would report the results of its studies and progress to the Council and to the Governing Body. The draft resolution further proposed that the Council should request the Secretary-General and the Director-General to supply the professional and clerical assistance necessary to ensure the earliest initiation and effective discharge of the Ad Hoc Committee’s work.

The Council decided to adjourn debate on this proposal to its next session.

The Governing Body at its 113th Session (Brussels, November 1950), noted the joint draft resolution submitted by the Governments of the United Kingdom and the United States to the 11th Session of the Council, and expressed its willingness to co-operate in the manner suggested in this proposal. It authorised the Director-General to collaborate with the Secretary-General in implementing the resolution, should it be adopted by the Council.

At its 12th Session the Economic and Social Council adopted, on 19 March 1951, resolution 350 (XII), based on the draft resolution referred to above. The text of resolution 350 (XII) read—

*The Economic and Social Council,*

*Recalling* its previous resolutions on the subject of forced labour and measures for its abolition,

*Considering* the replies furnished by member States to the communications addressed to them by the Secretary-General in accordance with resolutions 195 (VIII) and 237 (IX),

*Taking note* of the communications from the International Labour Organisation setting forth the discussions on the question of forced labour at the 111th and 113th Sessions of the Governing Body,

*Considering* the rules and principles laid down in International Labour Convention 29,

*Recalling* the principles of the Charter relating to respect for human rights and fundamental freedoms, and the principles of the Universal Declaration of Human Rights,

*Deeply moved* by the documents and evidence brought to its knowledge and revealing in law and in fact the existence in the world of systems of forced labour under which a large proportion of the populations of certain States are subjected to a penitentiary régime,
1. **Decides** to invite the International Labour Organisation to co-operate with the Council in the earliest possible establishment of an *ad hoc* committee on forced labour of not more than five independent members, qualified by their competence and impartiality, to be appointed jointly by the Secretary-General of the United Nations and the Director-General of the International Labour Office with the following terms of reference:

   (a) 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, by examining the texts of laws and regulations and their application in the light of the principles referred to above, and, if the committee thinks fit, by taking additional evidence into consideration;

   (b) To report the results of its studies and progress thereon to the Council and to the Governing Body of the International Labour Office; and

2. **Requests** the Secretary-General and the Director-General to supply the professional and clerical assistance necessary to ensure the earliest initiation and effective discharge of the *ad hoc* committee's work.

The appointment of the *Ad Hoc* Committee on Forced Labour was announced by the Secretary-General and the Director-General in June 1951 and the Committee began its work in October of that year. The members of the Committee were: Sir Ramaswami Mudaliar, K.C.S.I., D.C.L. (Oxon.), Chairman of the Committee; Mr. Paal Berg, former President of the Supreme Court of Norway; and Mr. Enrique García Sayán, former Minister for Foreign Affairs of Peru (in succession to Mr. Felix Fulgencio Palavicini, deceased, who was a member of the Committee during its First Session).

At the outset of its work the Committee had to consider the interpretation of its terms of reference. From the text of the resolution of the Council it was not clear whether the Committee was required to study only systems of forced or corrective labour which were employed as a means of political coercion or punishment and which were also on such a scale as to constitute an important element in the economy of a given country; or whether the Committee was required to study both systems of forced labour for political reasons and systems of forced labour which constituted an important element in the economic life of a country.

After careful examination of the records of the relevant discussions in the Economic and Social Council and in the Governing Body, the Committee decided that it should interpret its terms of reference in the latter sense: that is, it should examine systems of political forced labour as well as systems which were an important element in the economic life of the country.

The Committee held four sessions. It surveyed the problem by endeavouring to obtain information on a global basis by means of a questionnaire sent to all governments; by assembling all the documents and evidence brought to the Economic and Social Council during its debates; and by inviting non-governmental organisations and individuals to sub-
mit relevant information and documentation. Its findings are based on the study of the evidence thus collected.

The Committee unanimously adopted its report on 27 May 1953 and submitted it to the Economic and Social Council and to the Governing Body. This report is available to governments and it therefore seems unnecessary to repeat here the information contained in it about forced labour practices that were found to exist in various countries, or the details of the Committee's examination of the allegations against various countries. Moreover, any further information received from governments or non-governmental organisations pursuant to resolutions of the Economic and Social Council will also be submitted to the Conference.

It might be useful, however, to give here the concluding observations of the Ad Hoc Committee, as the present questionnaire is designed to deal more specifically with certain systems of forced labour found to exist by that Committee. The report states—

548. The Committee's enquiry has revealed the existence in the world of two principal systems of forced labour, the first being employed as a means of political coercion or punishment for holding or expressing political views, the second being employed for important economic purposes.

549. A system of forced labour as a means of political coercion was found by the Committee to be established in certain countries, to be probably in existence in several other countries, and to be possible of establishment in others. Such a system was found to exist in its fullest form and in the form which most endangers human rights where it is expressly directed against people of a particular "class" (or social origin) and even against political "ideas" or "attitudes" in men's minds; where a person may be sentenced to forced labour for the offence of having in some way expressed his ideological opposition to the established political order, or even because he is only suspected of such hostility; when he may be sentenced by procedures which do not afford him full rights of defence, often by a purely administrative order; and when, in addition, the penalty of forced labour to which he is condemned is intended for his political "correction" or "re-education", that is, to alter his political convictions to the satisfaction of the government in power. Such a system is, by its very nature and attributes, a violation of the fundamental rights of the human person as guaranteed by the Charter of the United Nations and proclaimed in the Universal Declaration of Human Rights. Apart from the physical suffering and hardship involved, what makes the system most dangerous to human freedom and dignity is that it trespasses on the inner convictions and ideas of persons to the extent of forcing them to change their opinions, convictions and even mental attitudes to the satisfaction of the State.

550. The Committee has also found that the systems of forced labour as a means of political coercion are applied with varying degrees of intensity in a number of countries, but it has observed in the trend of the laws and the aims and purposes of legislative enactments and administrative practices a tendency for countries which have less severe systems to approximate them to the more severe described above. The possibility of the extension of this system of forced labour as a means of political coercion to other countries or territories where unsettled conditions may prevail cannot be ignored.

2 See, in particular, articles 2, 9, 10, 11 and 19 of the Declaration.
551. The Committee's enquiry once again brings out the importance of the work undertaken by the United Nations to ensure and effectively safeguard human rights and dignity. It notes that the Commission on Human Rights is engaged in drafting articles for a Covenant on Human Rights which have a direct bearing on many of the issues considered by this Committee and the problems raised by such issues.

552. The Committee feels that an earnest appeal should be addressed to all governments concerned to re-examine their laws and administrative practices in the light of present conditions and the increasing desire of the peoples of the world "to reaffirm faith in fundamental human rights [and] in the dignity and worth of the human person".

553. While less seriously jeopardising the fundamental rights of the human person, systems of forced labour for economic purposes are no less a violation of the Charter of the United Nations and the Universal Declaration of Human Rights. Although such systems may be found in different parts of the world, their nature and scope are not everywhere the same.

554. These systems—still found to exist in some countries or territories where a large indigenous population lives side by side with a population of another origin—most often result from a combination of various practices or institutions affecting only the indigenous populations, and involving direct or indirect compulsion to work, such as compulsory labour properly so-called, various coercive methods of recruiting, the infliction of heavy penalties for breaches of contracts of employment, the abusive use of vagrancy legislation, restrictions on freedom of movement, restrictions on the possession and use of land, and other similar measures.

555. For nearly 25 years the International Labour Organisation has been striving to bring about the abolition of such practices and to improve the situation of indigenous workers. Conventions Nos. 29, 50, 64 and 65, and a number of supplementary Recommendations adopted by this Organisation, have shown the way of advance. The Committee's investigation has revealed that many of the countries concerned have ratified these Conventions and accepted the Recommendations, and in several of these countries or territories progress is commendable inasmuch as many of these practices have either been eliminated or are gradually declining. But progress has not been as rapid elsewhere.

556. The Committee feels assured that the International Labour Organisation will continue and intensify its efforts towards the abolition of these practices. The Committee's review of the situation makes it clear that, in view of present conditions, all governments concerned which have not yet ratified the Convention should do so as early as possible, and that it is most desirable that those governments which have ratified the Conventions with certain limitations should consider the advisability of withdrawing such limitations. The Committee has noted that some of these Conventions prescribe that the exemptions granted therein are only for a transitional period, while others state that the practices concerned should be ended as early as possible. Bearing in mind that a considerable time has elapsed since the exemptions and limitations were allowed—sufficient time progressively to alter the conditions—and noting further that many of the States ratifying the Conventions have in fact done so, the Committee feels that it may now be possible to implement fully these Conventions without limitations or temporary exemptions. The Committee notes that, at the instance of the Governing Body, the International Labour Office has undertaken the work of reviewing the position in different countries relating to penal sanctions for breach of contract of employment by indigenous workers. The Committee feels that this review

is particularly opportune and necessary and that it may be possible soon to make recommendations for the complete abolition of such penal sanctions by all countries and in all territories under their jurisdiction.

557. The Committee's enquiry has revealed that, while the forms of forced labour contemplated in the Conventions of the International Labour Organisation were virtually in relation to "indigenous" inhabitants of dependent territories, the systems of forced labour for economic purposes found to exist in some fully self-governing countries (where there is no "indigenous" population) raise new problems and call for action either by the countries concerned or at the international level.

558. Such systems of forced labour affecting the working population of fully self-governing countries result from various general measures involving compulsion in the recruitment, mobilisation or direction of labour. The Committee finds that these measures, taken in conjunction with other restrictions on the freedom of employment and stringent rules of labour discipline—coupled with severe penalties for any failure to observe them—go beyond the "general obligation to work" embodied in several modern Constitutions, as well as the "normal civic obligations" and "emergency" regulations contemplated in international labour Convention No. 29. They often deprive the individual of the free choice of employment and freedom of movement, and in this and other ways are contrary to the principles of the Universal Declaration of Human Rights.

559. In view of these findings, the Committee is of the opinion that the problems of compulsory labour, labour recruiting, the length of contracts of employment, penal sanctions for breaches of such contracts and other measures which have been examined in greater detail in regard to individual countries in Section IV, and which the International Labour Organisation has so far considered mainly in connection with indigenous workers, should now be examined also in connection with workers in fully self-governing countries.

560. The Committee has come to the conclusion that, however attractive the idea of using such methods with a view to promoting the economic progress of a country may seem to be, the result is a system of forced labour which not only subjects a section of the population to conditions of serious hardship and indignity, but which must gradually lower the status and dignity of even the free workers in such countries. The Committee suggests that, wherever necessary, international action be taken, either by framing new Conventions or by amending existing Conventions, so that they may be applicable to the position regarding forced labour conditions found to exist among the workers of fully self-governing countries.

561. The Committee undertook its work as a fact-finding body; its enquiry has revealed the existence of facts relating to systems of forced labour of so grave a nature that they seriously threaten fundamental human rights and jeopardise the freedom and status of workers in contravention of the obligations and provisions of the Charter of the United Nations. The Committee feels, therefore, that these systems of forced labour, in any of their forms, should be abolished, to ensure universal respect for, and observance of, human rights and fundamental freedoms.

The report of the Ad Hoc Committee was placed before the Governing Body at its 122nd Session (Geneva, June 1953). The Governing Body had not had sufficient time to undertake a thorough study of the report but decided inter alia after a preliminary examination—

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1 Article 2, paragraph 2.
2 See articles 13 and 23.
to support the recommendation of the report that an appeal be addressed to all the governments which in one form or another maintained or might maintain a system of forced labour of a political type to the effect that they re-examine their laws and administrative practices in the light of present conditions and the increasing desire of the peoples of the world "to reaffirm faith in fundamental human rights [and] in the dignity and worth of the human person";

to thank the Chairman and members of the Ad Hoc Committee; and
to place on record the intention of the International Labour Organisation to give sympathetic consideration to the recommendations of the Ad Hoc Committee on Forced Labour and to invite the Director-General to place before the Governing Body at its autumn session appropriate proposals relating to those recommendations.

During its Eighth Session, in the autumn of 1953, the General Assembly of the United Nations adopted a resolution on forced labour. The operative part of this resolution reads—

*The General Assembly,*

1. *Affirms* the importance which it attaches to the abolition of all systems of forced or "corrective" labour, whether employed as a means of political coercion or punishment for holding or expressing political views or on such a scale as to constitute an important element in the economy of a country;

2. *Invites* the Economic and Social Council and the International Labour Organisation, as a matter of urgency, to give early consideration to the report of the Ad Hoc Committee on Forced Labour at their next sessions with this aim in view;

3. *Requests* the Secretary-General to consult with governments which have not yet found it possible to provide information in response to the Ad Hoc Committee's request to the effect that they submit such information before the 17th Session of the Economic and Social Council so that these replies may be brought to the attention of the Council;

4. *Requests* the Economic and Social Council to report on forced labour to the General Assembly at its Ninth Session.

At its 123rd Session (Geneva, November 1953) the Governing Body further considered the report of the Ad Hoc Committee and decided—

(a) to address an appeal to governments which had not yet ratified the Forced Labour Convention, 1930, the Recruiting of Indigenous Workers Convention, 1936, the Contracts of Employment (Indigenous Workers) Convention, 1939, or the Penal Sanctions (Indigenous Workers) Convention, 1939, inviting them to give prompt consideration to whether ratification(s) could not be effected and in the case of governments which have responsibilities for non-metropolitan territories, also to consider whether the Convention(s) could be applied without modifications to all their non-metropolitan territories;

(b) to authorise the Director-General to address an appeal to the governments which had ratified one or more of these Conventions and which had responsibilities for non-metropolitan territories to examine the possibilities of extending the application of the Conventions to any territories in which
any or all of the provisions are not applied, and of withdrawing any declaration(s) modifying the terms of the Convention(s) so far as applying to non-metropolitan territories and to keeping the Governing Body informed;

(c) to instruct the Office to continue work on the five-yearly report on the working of the Forced Labour Convention, 1930, called for in terms of Articles 1 (3) and 31 of that Convention, and to submit to it a draft containing the information required by the terms of the Convention and the Standing Orders of the Governing Body as soon as possible, this draft being communicated to Members for their observations with a view to enabling the Governing Body thereafter to consider "the possibility of the suppression of forced labour or compulsory labour in all its forms without a further transitional period" or some further limitation of the transitional exceptions allowed by the Convention;

(d) to affirm the willingness of the International Labour Organisation to continue and intensify its efforts towards the abolition of forced labour practices of an economic character including practices not envisaged when the existing terms were adopted;

(e) to request the Director-General to continue his consultations with the Secretary-General of the United Nations on those concepts of the matter not dealt with in the foregoing proposals and to keep the Governing Body informed.

At its 17th Session in New York in the spring of 1954 the Economic and Social Council considered the report of the Ad Hoc Committee on Forced Labour. It adopted a resolution on this subject which inter alia noted with satisfaction the action already taken by the Governing Body on the recommendation of the Committee; invited the I.L.O. to continue its consideration of the question and to take what further action it deemed appropriate towards abolishing forced labour throughout the world; and requested the I.L.O. jointly with the United Nations to submit a further report containing any new information on systems of forced labour for consideration by the Council at its 19th Session.

At its 125th Session (Geneva, May 1954) the Governing Body considered the question of forced labour in connection with the agenda of the 39th (1956) Session of the International Labour Conference. The Ad Hoc Committee had pointed out the limitations of the Forced Labour Convention of 1930 (No. 29), which excluded certain categories of forced labour practices from its scope. The Governing Body felt that the time had come to go into the question of such exclusions and therefore requested the Director-General to submit to it at its 127th Session a law and practice report on forced labour. At that session, in November 1954, the Governing Body was able to study the whole question thoroughly. It had before it, apart from a note by the Director-General on the question, the draft five-yearly report on the working of the Forced Labour Convention, 1930; the report of the Ad Hoc Committee; the record of the debate in the Economic and Social Council on the Ad Hoc Committee's report; and the observations and comments on this report received from governments or made in the course of discussion in the International Organisations Committee of the Governing Body.
The Governing Body unanimously decided to put the item on the agenda of the 39th Session of the Conference for a first discussion. It also approved a list of points which should serve as a basis for consulting governments in regard to a proposed new international instrument on forced labour. It was understood, of course, that this approval did not commit any member of the Governing Body with regard to individual points. The Governing Body noted that, subject to the abstention of one Employers’ member, the general view of the Employers’ and Workers’ groups was that the question of forced labour should be dealt with through a new Convention. It was also pointed out that this should not prejudice the possibility of revising the Forced Labour Convention, 1930, at some future date.

Should the Conference in 1957 adopt a Convention, the provisions for enforcement contained in articles 22 to 34 of the Constitution would apply to governments which ratify that Convention. These governments would be required to make an annual report on the application of the Convention. Any employers’ or workers’ organisation would be entitled to make a representation to the International Labour Office that the Convention was not being effectively observed, and any Member which had ratified would be entitled to file a complaint to the same effect. Such a representation would be examined by a tripartite committee consisting of three members of the Governing Body, and might be communicated to the government concerned. If a satisfactory statement were not received within a reasonable time from that government the Governing Body could publish the representation and the reply, if any, received. In the case of a complaint filed by a Member, the Governing Body could appoint a Commission of Inquiry. All Members of the Organisation, whether directly concerned in the complaint or not, have an obligation under the Constitution to place at the disposal of the Commission of Inquiry any information in their possession which bears on the subject-matter of the complaint. The Commission of Inquiry must make a report, embodying its findings of fact and its recommendations for meeting the complaint. An appeal lies to the International Court of Justice. If a Member fails to carry out the recommendations of the Commission or the decision of the Court, “the Governing Body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith” (article 33).

In the case of Members which do not ratify the Convention, the Governing Body would be entitled, under article 19 of the Constitution, to request reports at appropriate intervals regarding their law and practice in respect of matters dealt with in the Convention. While the Constitution does not lay down any special procedure for dealing with a Member which fails to furnish such reports, it is presumably open to the Governing Body or the Conference to take appropriate steps to secure the information which the Member has failed to supply and to refer that information
for examination to the Committee of Experts or to the Conference Committee on the Application of Conventions and Recommendations.

Should the Conference adopt a Recommendation rather than a Convention the same procedure would apply as in the case of an unratified Convention.

"Forced labour" is a wide term, and there is a very large range of practices that affect the freedom of workers and lead to varying degrees of compulsion in their work. The present questionnaire is prepared with a view to consideration of an instrument dealing with systems of forced labour as a means of political coercion or punishment, and as a regular method of mobilising labour for economic development. It does not cover all the ways in which the freedom of workers can be restricted and constraint put upon them, nor does it deal with all the types of forced labour practices pointed out in the report of the Ad Hoc Committee.

It may be mentioned, however, that the I.L.O. has already taken action in various fields relating to forced labour practices and has already adopted several Conventions and Recommendations which bear on aspects of the problem.

The following international labour Conventions are at present in force: the Forced Labour Convention, 1930, the Recruiting of Indigenous Workers' Convention, 1936, the Contracts of Employment (Indigenous Workers) Convention, 1939, and the Penal Sanctions (Indigenous Workers) Convention, 1939.

The third five-yearly report on the Forced Labour Convention, 1930, called for by Article 31 of that Convention, has been prepared and is now being considered by governments. The Governing Body will examine the question of the revision of this Convention during 1956 and it will be open to it at that time to decide to place this question on the agenda of a future session of the Conference. If it does so decide, the revision of this Convention can be dealt with in the normal way after the Conference has completed its discussions on the new instrument which it is proposed should cover the gaps in the 1930 Convention. Copies of the third five-yearly report will also be available to delegates to the Conference and it is therefore not proposed to repeat here the information contained in it.

It is also relevant to recall that at the suggestion of the Committee of Experts on Social Policy in Non-Metropolitan Territories the Governing Body placed the question of penal sanctions on the agenda of the 37th Session of the Conference (1954). This question is on the agenda of the 38th Session for second discussion with a view to supplementing the Penal Sanctions (Indigenous Workers) Convention by a Recommendation and a resolution.

The I.L.O. is also continuing its efforts in other directions to deal with forced labour practices. Mention may be made of its collaboration
with the United Nations in the preparation of a draft Convention concerning the abolition of slavery and servitude.

It is hoped that any new instrument that the Conference might adopt will represent an important step in the continuing efforts to deal with this problem. As has often been pointed out, however, forced labour is more than a mere aspect of conditions of work, to be considered on the same plane as hours of work or weekly periods of rest. Its abolition is a fundamental principle as valid and as deeply cherished as a belief in freedom of association—a principle embodied in many national and international declarations. While formal instruments can and do contribute to the abolition of forced labour practices, it should be remembered that these can only be finally eliminated when governments and peoples are fully convinced of the dignity and worth of the human person, and are prepared to act in accordance with this conviction.
CHAPTER II

ANALYSIS OF THE QUESTIONNAIRE

In accordance with article 39 of the Standing Orders of the Conference the present questionnaire has been prepared in order to obtain the views of Members of the International Labour Organisation on the points which might be dealt with in an international instrument. It is based on a list of points which the Governing Body, at its 127th Session (Rome, November 1954), approved as a suitable basis for the consultation of governments.

In approving this list, the Governing Body felt that any new international instrument adopted by the Conference should deal with those forms of forced labour which were specifically excluded by the Forced Labour Convention, 1930 (No. 29).

Article 2, paragraph 2, of this Convention reads—

Nevertheless, for the purposes of this Convention, the term "forced or compulsory labour" shall not include—

(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 which forms part of the normal civic obligations of the citizens of a fully self-governing country;
(c) 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 a private individual, company or association;
(d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;
(e) minor communal services of a kind which, being performed by the members of the community in the direct interest 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 will be seen from the foregoing that four types of forced labour are expressly excluded from this Convention: military service; work which is a normal civic obligation; labour as a result of conviction by a court of law; and labour performed in cases of national emergency.
It has become evident that many of the forced labour practices found to be in existence at the present time—practices not foreseen when the Forced Labour Convention of 1930 was framed—might be held to be justified under the exceptions mentioned above. In particular it is apparent that the "systems of forced labour as a means of political coercion" and "systems of forced labour for economic purposes" described as being in existence by the Ad Hoc Committee could be considered as falling under the exceptions permitted by the Forced Labour Convention, 1930.

Any new instrument would therefore have to cover these exceptions in such a way as to forbid the undesirable practices not completely outlawed by that Convention.

Of the four types of labour excepted, military service falls in a rather special category. Many countries make it obligatory for their citizens to undergo a period of military service. It may be felt that this particular type of service should be outside the scope of the proposed instrument as it is not directly related to the forced labour practices envisaged in this report; but even so certain safeguards may be considered necessary.

The remaining three types of labour are those which need particular attention. It seems reasonable that the competent public authority of a country should be able to call on its citizens to perform certain general tasks which benefit the community and which can be regarded as a normal civic obligation; or that persons sentenced to imprisonment should be required to work during the period of their conviction; or that, in a national emergency, the State should be able to mobilise all available help. Yet these terms and concepts are capable of such varied interpretations, and indeed their meanings do vary so greatly from country to country that, unless they are defined with great care in the proposed instrument, they might be emptied of meaning.

If it is agreed that the appropriate public authority should have the power to call upon its citizens to fulfil certain civic obligations, it can be assumed that these obligations should fall equally on all persons without unjust discrimination, that they should be of a relatively minor nature, and that they should contribute to the general well-being of the community. If an obligation is laid only on a certain class or sector of the population, chosen without reference to the work to be exacted, or if the obligation is such as seriously to affect the normal life and occupation of the persons concerned, it would militate against the concept of a "normal civic obligation" and might well lead to some of the forced labour practices which the proposed instrument should be designed to restrict. It therefore seems essential that the proposed instrument should define the term "normal civic obligations" with such care that while it permits reasonable tasks being demanded of citizens it does not give scope for abuse. An
endeavour has been made in the questionnaire to deal with the various conditions that should delimit the concept of a normal civic obligation.

In most countries it is regarded as normal that persons convicted of certain categories of crime should be required to work during the period of their sentence. It is widely recognised that such work serves an educational purpose, and helps to keep up the morale of the prisoners. It may be felt that it is reasonable to permit this type of forced labour and that it would be undesirable to attempt to forbid it in any way. However, it must also be realised that the permitting of such labour can lead to abuses, particularly if persons may be sentenced to penal labour on account of their political or other beliefs. If such sentences were permitted prison labour could in fact become tantamount to a system of forced labour as a means of political coercion. It therefore seems essential that the proposed instrument should guard against this and forbid penal labour for "crimes" of political opinion. It should not allow penal labour except for specific breaches of the law and should ensure that the conviction has been the result of a just and impartial trial by an independent tribunal, and not the result of an administrative decision. Moreover, provision should be made for adequate supervision of any penal labour performed, so that the working conditions of the prisoners can be regulated.

Similar considerations apply to any exception made in respect of a national emergency. It would appear that the intent of such an exception should be that, in circumstances of national or local calamity, the government should be able to call upon its citizens to help to deal with the emergency. It would be normal to assume it to be in the interests of the people and the country that the emergency be dealt with in the most effective manner. By definition, an emergency would be temporary and the mobilisation of manpower necessary to cope with it would therefore also be only temporary. However, here again the notion of an emergency may vary considerably and it is possible that a state of emergency might be declared in order to mobilise labour for some economic project of importance to the country. As a safeguard against this, two conditions would seem necessary: that the state of emergency should be duly declared by the competent authority; and that the conditions of work and of remuneration of the persons mobilised should not be less favourable than those applicable to workers in normal circumstances, engaged in similar work. These conditions should include the basic principles of freedom of association and collective bargaining which are embodied in international labour Conventions. However grave the national emergency, workers should not be deprived of fundamental rights which are laid down in Conventions and are indeed basic to the Constitution and principles of the I.L.O. It may be relevant to recall here that Article 2 of the Labour Clauses (Public Contracts) Convention, 1949, states—
Contracts to which this Convention applies shall include clauses ensuring to the workers concerned wages (including allowances), hours of work and other conditions of labour which are not less favourable than those established for work of the same character in the trade or industry concerned in the district where the work is carried out.

It would also seem desirable that representative organisations of employers and workers should be associated with the emergency measures for the recruitment and direction of labour. Such association not only would help to prevent any abuses but would assist in the smooth operation of the emergency measures.

It is now proposed to deal in more detail with the specific questions included in the questionnaire attached to this report.

In question 1 governments are consulted on the desirability of the adoption of a new international instrument dealing with forced labour practices which are excluded from the scope of the Forced Labour Convention, 1930.

Question 2 relates to the form that the proposed instrument might take. When the Governing Body discussed the question of placing forced labour on the agenda of the International Labour Conference, the Workers' group and the great majority of the Employers' group, without in any way wishing to prejudge the decision of the Conference, strongly urged that the new instrument should be a Convention. Such a form, they felt, would ensure more effective enforcement of the international standards embodied in the instrument.

In view of the recent examination and discussion in the various organs of the United Nations and the I.L.O. of the subject of forced labour and in view of the world-wide interest in the abolition of forced labour practices, it seems desirable that if a Convention is adopted, it should obtain early and widespread ratification. In question 3, therefore, governments are asked whether they would be prepared to recommend ratification of a new Convention to the appropriate authorities, provided always that the terms of the Convention were deemed satisfactory.

Questions 4 and 5 relate to the definition of the term "forced labour". This term was defined in the Forced Labour Convention, 1930 (No. 29), as: "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". The Ad Hoc Committee on Forced Labour made a thorough examination of international action for the suppression of forced labour from 1920 to 1951, including a study of the principles contained in Convention No. 29, in the Charter of the United Nations and in the Universal Declaration of Human Rights. The Committee noted that—

...while it might take the definition of forced labour embodied in Convention No. 29 as a working basis, the historical conditions and perspective on the
basis of which that Convention was drawn up may have changed in certain respects, and that it might therefore be necessary to review the principles of the 1930 definition of forced labour in the light of any new developments which might appear from its detailed study of this contemporary problem.¹

Governments are therefore asked whether they consider that the existing definition of “forced labour” is satisfactory as a basis for a new instrument dealing with different kinds of forced labour. They are also asked to suggest any modifications which they think should be made in the definition.

Question 6 relates to the general principle that no-one should be required to perform forced labour. This is the basic issue. It has been pointed out that forced labour is contrary to the principles not only of Convention No. 29 but also of the Charter of the United Nations and the Universal Declaration of Human Rights. Article 55 of the United Nations Charter states that the United Nations shall promote “...conditions of economic and social progress and development... universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion”. Article 56 states: “All Members pledge themselves to take joint and separate action in co-operation with the Organisation for the achievement of the purposes set forth in article 55”.

Article 4 of the Universal Declaration of Human Rights states—“No-one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms”. Article 23 states that every person has the right to “free choice of employment” and to “just and favourable conditions of work”. The Asian-African Conference which met in Bandung in April 1955 declared “its full support of the fundamental principles of human rights as set forth in the Charter of the United Nations” and “took note of the Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations”.

The American Declaration of the Rights and Duties of Man, adopted by the Ninth International Conference of the American States, says in article XIV: “Every person has the right to work, under proper conditions, and to follow his vocation freely, in so far as existing conditions of employment permit”.

Article 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms adopted by the Council of Europe reads: “(1) No-one shall be held in slavery or servitude. (2) No-one shall be required to perform forced or compulsory labour”.

Several national constitutions contain similar provisions, while most governments, in the positions they have taken and in the votes they have cast in organs of the United Nations and the I.L.O. during discussions of

the question of forced labour, have already demonstrated that they subscribe to the principle that no-one should be required to perform forced labour.

Question 7 deals with forms of forced labour which the Ad Hoc Committee has stated have been found to exist in various self-governing territories, and which any proposed instrument should endeavour to eliminate. It may be considered desirable that the instrument should, in addition to the general statement of principle that forced labour should be abolished, specify in particular that forced labour, as a means of political coercion or education or punishment, or as a normal method of mobilising labour for economic development, or as a means of labour discipline, should be abolished.

Reference has already been made to compulsory military service, which is one of the practices excluded from the scope of Convention No. 29. It may be considered that this should be excluded from the scope of the proposed new instrument also. This possibility is envisaged in question 8 (a). Governments may also wish to give consideration to the scope and definition of the term “work of a purely military character”, as the kind of work required on occasion from the military often varies from country to country. The wording used in the questionnaire is that of the Forced Labour Convention, 1930. It may also be necessary to consider whether the scope of this exception should apply to any work undertaken by the military forces—for instance, in the event of a national emergency. Again, certain countries recognise conscientious objection to military service and provide for other forms of work in lieu of such service. It is also to be considered whether this should be excluded from the scope of the proposed instrument. This matter is dealt with in question 8 (b).

Questions 9 and 10 refer to the desirability of providing for certain other exceptions to the principle that no-one should be required to perform forced labour. Reference has been made earlier to types of forced labour practices which might be excepted from the general principle, namely work which forms part of normal civic obligations, work exacted in consequence of a conviction in a court of law, and work exacted in circumstances of emergency requiring the mobilisation of manpower for essential work of national importance.

It may be recalled here that article 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms adopted by the Council of Europe states—

(2) No-one shall be required to perform forced or compulsory labour.

(3) For the purpose of this article the term “forced or compulsory labour” shall not include:
(a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 51 of this Convention or during conditional release from such detention;

(b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;

(c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;

(d) any work or service which forms part of normal civic obligations.

Article 15 (1) of the same Convention states—

In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

It may also be noted that the Draft Covenant on Civil and Political Rights under study by the United Nations, while stating that slavery and servitude and forced or compulsory labour should be prohibited, suggests that the latter may be resorted to as punishment for a crime on the basis of a court decision. The Draft Covenant also provides that Parties may, in time of an officially proclaimed public emergency which threatens the life of the nation, derogate from the obligations under the Covenant, provided that the derogations are limited to the extent strictly required by the exigencies of the situation, are not inconsistent with the obligations of the Party under international law, and do not discriminate solely on grounds of race, colour, sex, language, religion or social origin.

Questions 11 to 22 deal with the specific conditions which the proposed instrument might lay down as governing the exceptions mentioned above. The necessity of a careful definition of the conditions under which these exceptions may be resorted to has been stressed earlier in this chapter.

Questions 11 to 18 deal with the regulation of work or service forming part of a person's normal civic obligations.

Question 11, clause (a), refers to the desirability of ensuring that the obligation to perform such work should rest, subject to such exceptions as may be provided for by law, upon the population or community as a whole. This requirement would prevent any special obligations being imposed on a portion of the community by reason of race, religion, language, caste or political creed. Such special obligations would be discriminatory and would violate the concept of a "normal civic obligation".

Clause (b) deals with work exacted as a means of political coercion or of political education, or imposed as a punishment for holding certain

1 This article relates to arrest and detention.
political views. In question 7 (a) reference was made to forced labour imposed on political grounds; this clause relates to prohibition of the consideration of such forced labour as a normal civic obligation. It may be desirable for the proposed instrument to state specifically that forced labour on political grounds may not in any circumstances be considered a normal civic obligation, lest the door be opened to abuse.

Clause (c) deals with work which is inconsistent with the principle of the freedom of choice of normal occupation. The freedom to choose one's occupation is a basic principle incorporated in the Constitution of the I.L.O., the Charter of the United Nations and the Universal Declaration of Human Rights. Compulsory work imposed on a person as a normal civic obligation should not conflict with this principle; in other words, the work required from a person as a normal civic obligation should not be such as to prejudice or seriously interfere with the choice or pursuit of his normal occupation.

In question 12 governments are consulted on the desirability of specifying any further types of work which should not be regarded as normal civic obligations, and which should therefore not be excepted from the general prohibition against forced labour.

Question 13 deals with certain types of local work which law or custom requires from a community for certain general purposes such as the maintenance of communications, the preservation of food supplies, the maintenance of the water supply, protection against fire, flood, avalanche or other similar catastrophe, and the maintenance or improvement of local utilities or amenities. It may be felt that such work, which is recognised as a normal obligation by the community, and is performed for the benefit of the community, should not be prohibited. Indeed, such prohibition might do harm to the community and the individuals who compose it. Normally such work would make only a small demand on a person's time or energy, and would not conflict with his normal life and occupation.

In question 14 governments are consulted on the desirability of specifying any other types of work which may be regarded as a part of normal civic obligations and therefore exempt from the general injunction against forced labour.

It may be considered necessary to limit the duration or extent of forced labour which forms part of normal civic obligations, and governments are consulted on this point in question 15. In general it seems reasonable to lay it down that work considered as a normal civic obligation should be of short duration, so that it does not encroach on more than a small part of a person's spare time. Unless some limitation were imposed, work demanded of a person as a civic obligation might seriously interfere with his normal life and work and affect the fundamental freedom of a citizen to choose his own way of life.
In certain cases work which would normally be considered as part of a person’s civic obligation may necessitate his transfer from home. Such transfer would impose a further burden on the person concerned and in certain circumstances would seriously affect his living and working conditions. Governments are consulted in question 16 on the extent to which work calling for such transfer should be regarded as a normal civic obligation.

Question 17 deals with the exemption of persons from normal civic obligations on the grounds of age, disability or other circumstances. Although, generally speaking, a normal civic obligation should fall equally on all persons without discrimination, it must be foreseen that old age or physical or other disability may make it difficult or harmful for some persons to assume the obligation. In such cases it would be desirable to exempt such persons from a burden that would fall more heavily on them than on the rest of the population and may indeed be one that they are physically incapable of assuming.

It should be pointed out that in most countries where military service is compulsory an exception is made for those whose physical condition is not up to a certain minimum standard, and the service is usually limited to certain age groups.

In question 18 governments are consulted on the desirability of placing any further limitations or safeguards on work which is regarded as a normal civic obligation.

Questions 19 and 20 deal with work done as a consequence of a conviction in a court of law. In question 19 governments are asked for their views on the need for laying down the conditions under which such work may be exacted, while question 20 deals with various conditions which it might be considered desirable to fulfil. Clauses (a) to (d) deal with the conditions of the trial which lead to conviction, and clauses (e) to (h) with the conditions under which the labour should be performed.

Clause (a) of question 20 deals with conditions relating to the trial which has led to the person’s conviction, and governments are consulted on the desirability of laying down that the legal proceedings should be regular, fair, reasonably expeditious and held before an independent tribunal. It will no doubt be considered important that the tribunal should be completely free from pressure from the executive or from any political party. The person concerned should have been informed in advance of the charges against him and had full opportunity for calling evidence and defending himself. Unless a fair trial is held before an independent tribunal, a man may be convicted by an executive department, and this could lead to the discriminatory forced or “corrective” labour that the proposed instrument should attempt to abolish. Both the American Declaration of the Rights and Duties of Man (article XXVI) and the
Convention for the Protection of Human Rights and Fundamental Freedoms adopted by the Council of Europe (article 6) refer to a person's right to a fair and impartial trial before an independent tribunal. Moreover, the Draft Covenant on Civil and Political Rights provides for this as one of the rights to be safeguarded. It lays down that arrested persons must be informed at once of the reasons for their arrest and the charges against them. It also provides that every accused person should have the right to a fair public trial, that he should be presumed to be innocent until proved guilty, and that all facilities should be provided to ensure a just and fair decision.

Clause (b) relates to the condition that the offence for which a person has been convicted should be one for which, under the law of the country concerned, work may be exacted during the sentence. In other words, the requirement to work should not be based on an arbitrary administrative decision, but should be based on the crime for which the person concerned has been convicted, and should be in accordance with the penal law.

In clause (c) governments are consulted on the desirability of providing that the offence shall consist of an overt act or an omission and not deduced from presumed or expressed opinions or alleged associations. Arrest and sentence for opinions or associations might, once again, lead to the possibility of forced labour for political or "corrective" purposes under cover of the proposed instrument.

Clause (d) sets out the condition that the offence of which the person concerned has been convicted must have been a legal offence at the time it was committed. In most countries such a condition is part of the normal legal code. The Draft Covenant on Civil and Political Rights states that no-one shall be held guilty of a criminal offence unless the action constituted, at the time of its commission, a criminal offence under national or international law.

The Convention for the Protection of Human Rights and Fundamental Freedoms also refers to this point in article 7, which reads—

(1) No-one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time it was committed, nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

(2) This article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

Clause (e) relates to the condition that the work exacted must be carried out under the supervision of a specified public authority, and that the person concerned shall not be placed at the disposal of private individuals or undertakings. It may well be considered necessary that the work carried out by convicted persons should be supervised by a public
authority, in order to prevent abuses. Moreover, if the convicted persons were to be placed at the disposal of private firms and undertakings, their special circumstances might lay them open to exploitation.

Clause (f) deals with the conditions governing the work performed, such as the health and safety precautions, hours of work and rest periods. It may be considered undesirable that labour should be exacted from convicted persons under conditions less favourable than those obtaining elsewhere, or that the work should be exempted from the scope of national regulations applying to similar work elsewhere.

Unless care is taken, work performed by convicted persons might, as a result of the special conditions relating to convict labour, have an adverse effect on the general employment of free labour, or the articles produced might offer unfair competition to goods produced elsewhere. It may be considered desirable that the proposed instrument should specifically guard against the danger and forbid such unfair competition. Clause (g) therefore relates to the provision that the work shall not be such as to compete with or prejudice the employment of free labour, and clause (h) with the provision that the commodities produced as a result of such work shall not be sold so as to compete unfairly with similar articles produced by free labour. It may be worth considering whether this latter point can be most appropriately dealt with in the general instrument which is being discussed here or in some supplementary instrument.

Questions 21 and 22 deal with conditions relating to work which may be exacted or performed in an emergency which requires the mobilisation of manpower for essential work of national importance.

In question 21 governments are consulted on the desirability of laying down conditions which should govern work required of persons during a national emergency. Clause (a) deals with the condition that such compulsory work should be required only when the competent authority in the country certifies that a national emergency necessitates such work. It also refers to the need for ensuring that such work is performed in accordance with conditions specified in national laws and regulations. It may be felt that the declaration of a national emergency should not be left entirely to executive decree. Moreover, work demanded from persons during such an emergency should be governed by regulations and thus not purely a matter for executive discretion.

Clause (b) refers to the desirability of consulting the most representative employers' and workers' organisations in the planning and administration of arrangements for the compulsory recruitment or direction of labour. Such consultation would not only help to eliminate any possible abuses but ensure that the work was organised as smoothly and with as little friction as possible. It might also assist in the enforcing of the other conditions laid down by national regulations.
In clause (c) governments are consulted on the desirability of taking into consideration to the greatest possible extent the abilities and preferences of individual workers regarding the nature and place of work. In a national emergency it may not always be possible to give individual workers the same degree of consideration as in normal circumstances but, subject to the exigencies of the situation, it would be desirable to take individual preferences and abilities into account to the largest possible extent.

Clause (d) deals with the desirability of providing for a right of appeal against such compulsory labour on the ground that the individual concerned would suffer undue hardship. Cases may arise where for certain special reasons an individual is liable to suffer hardship in excess of that being borne by the population in general. While it may not be considered desirable to give the administrative staff powers to use their discretion in exempting such persons, it would be possible to provide for a right of appeal to an appropriate authority which would consider all aspects of the case and exempt the individual if the circumstances warranted it.

Clause (e) deals with the desirability of guaranteeing freedom of association and the right to organise and the right to bargain collectively, in accordance with existing international labour Conventions. It may be considered undesirable that a national emergency, however grave, should deprive workers of their protection. The nature of the emergency may in some cases demand special measures to deal with industrial or labour disputes, but, subject to this, it may be thought that workers should continue to be guaranteed the right to organise and to bargain collectively. It is recalled that these rights are framed in the Freedom of Association and Protection of the Right to Organise Convention, 1948, and the Right to Organise and Collective Bargaining Convention, 1949.

In clause (f) governments are consulted on the desirability of mobilised workers being paid rates of wages and being granted conditions of work not less favourable than those prevailing in the area for similar work. It may be considered undesirable that workers required to perform compulsory work due to an emergency should be subjected to conditions of work less favourable than those generally obtaining in the area. The normal wages and conditions of work applicable in the area should also apply to those contributing to meeting the emergency.

Clause (g) relates to the payment of reasonable compensation for any necessary expenditure arising out of the compulsory labour to be performed by the worker. Cases might arise where a worker is forced to incur certain expenses arising out of the need to perform his share of the work as directed, as for example in the case of transfer away from his
home. It may be considered reasonable that he should receive suitable compensation for such expenditure.

In clause (h) governments are consulted on the question of workers possessing the right of reinstatement in their regular employment and the maintenance of all other accrued rights. When a state of national emergency is ended and normal conditions are resumed, it may be considered reasonable that workers released from obligatory work should be able to revert to their former regular employment. It also seems reasonable that they should maintain their accrued rights and that for the purposes of such rights their period of compulsory service should count as part of their normal employment. This would ensure that they do not suffer unduly as a result of being required to deal with a national emergency.

In question 22 governments are consulted on the desirability of providing for any further limitations or safeguards relating to the compulsory recruitment or direction of labour in a national emergency.

In questions 23 and 24 governments are asked for their views on the desirability of making further permanent or transitional exceptions to the principle that no-one should be required to perform forced labour, and concerning limitations or safeguards which might be imposed in respect of any such exceptions.
QUESTIONNAIRE

Governments are requested to send their replies to the following questionnaire, stating their reasons for them, so as to reach the Office in Geneva by 6 October 1955.

I. Form of the International Instrument

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?

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

II. Definition of Forced Labour

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?

III. Scope

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?

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;
(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?

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?

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?

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

IV. Work or Service Forming Part of Normal Civic Obligations

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?

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?

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?

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?

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?

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?

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?

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?

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

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?

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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.
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?

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;

(b) 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;

(c) 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;

(d) 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;

(e) 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;

(f) 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;

(g) 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;

(h) 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?

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?
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?