

POPULATION AND MIGRATION QUESTIONS

WORLD POPULATION CONFERENCE

The World Population Conference was held in Rome from 31 August to 10 September 1954 as a joint project of the United Nations, the International Union for the Scientific Study of Population, the Food and Agriculture Organization, the International Bank for Reconstruction and Development, the International Labour Organisation (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization. The Conference was attended by more than 450 experts from many parts of the world, including not only the foremost students of population but also leading experts in many related scientific fields.

The purpose of the Conference, as stated by

the Economic and Social Council in authorizing the project in June 1952 (resolution 435 (XIV)) was solely an exchange of views and experience among experts; consequently the Conference adopted no resolutions or recommendations for action. However, the discussions and the numerous scientific papers on which they were based helped to clarify the scientific basis for policy decisions and action programmes with reference to a wide variety of questions connected with population trends. At the same time it was made clear that present knowledge at many points is not sufficient for those purposes and that the United Nations and the collaborating specialized agencies have a substantial stake in the extension of research, particularly on the trends of population in the

under-developed countries and their relation to programmes of social and economic development.

The proceedings of the Conference, including the texts of the papers contributed and summary reports of the discussions at the various meetings, are being prepared for publication. They are to be published with the help of a grant of funds from the International Union for the Scientific Study of Population, as well as contributions from the Government of Italy and from ILO.

POPULATION STUDIES

The Population Commission held no session during 1954. As in previous years, the United Nations programme of population studies has been oriented primarily to the problems of economic and social development of under-developed countries. The demographic aspects of these problems have been assuming increased importance as the rates of population growth in the less developed countries have risen, responding to the success of health and medical programmes, which have reduced the death rates. Steps have been taken to concentrate resources still more effectively in this field.

The discussions at the World Population Conference did much to show what types of information are needed concerning the trends of population and their relation to the problems of economic and social development. In addition, the Secretary-General, with the help of UNESCO, the International Social Science Council and the Social Science Research Council, convened a small committee of experts to select the principal questions in this field on which further research is required. Plans were also made for regional seminars to be held in Latin America and in Asia and the Far East, where specific needs of governments for demographic information will be examined.

Meanwhile, the staff engaged in population studies at United Nations Headquarters focused its attention more closely on the preparation of materials which would be immediately useful to the governments of under-developed countries in planning development programmes. The work on future population estimates was intensified, and a series of estimates for Central and South American countries

was prepared, showing projected population trends by sex and age groups up to 1980. The analysis of relationships between the growth of population and of the labour force was continued with the aim of publishing a report on the trends of man-power from a demographic point of view, with special reference to the under-developed countries.

A report on the patterns of mortality, including a series of model life-tables, was drafted; it will facilitate estimates of mortality levels and trends in under-developed countries.

A report on results of a pilot field study of population in relation to economic and social conditions in the State of Mysore, India, neared completion. This field study proved valuable in demonstrating and improving practical methods for obtaining needed information which the existing statistical services in many under-developed countries do not provide.

Steps have been taken for closer co-operation with the regional commissions on demographic aspects of the problems with which they are concerned. A plan for a study on population growth and economic development in Asia and the Far East has been prepared, and arrangements have been made for close co-operation between the Secretariat at Headquarters and the secretariat of the Economic Commission for Asia and the Far East in carrying out this project.

The provision of technical assistance to governments of under-developed countries in obtaining information on population as a basis for policy formation and planning of development programmes was continued during the year. Egypt and Indonesia were among the countries which requested and received such assistance.

MIGRATION

At its 17th session, the Economic and Social Council considered General Assembly resolution 733 (VIII) inviting the Council, in co-operation with ILO and other interested agencies, to develop a programme of studies on migration within national boundaries. The Council had before it the summary records of the meetings and the report of the Third Committee of the General Assembly on this question, which had been communicated to the Council for its

guidance and information at the Assembly's request.

The Secretary-General submitted a memorandum in which he suggested, after consulting the International Labour Office, that the Council refer this question to the Population Commission. The Council on 1 April, without discussion, decided to do so.

Inter-governmental and non-governmental organizations active in questions of international migration, meanwhile, have increased their participation in the development of the United Nations programme of work. The International Institute for the Unification of Private Law at Rome completed, on behalf of the United Nations, a compilation of legislative texts on the legal status of aliens covering ten of the most important immigration countries. The Institute followed this by preparing a companion compilation, consisting of multilateral and bilateral instruments concluded by governments relating to the status of aliens.

The United Nations Secretariat has continued to assist non-governmental organizations serving migrants in carrying forward their policies of providing maximum care without duplication of effort, and use has been made of the experience and suggestions of those organizations as basic data on which recommendations for international action can be developed. The voluntary agencies have been surveying the social situation of refugees in the professional categories who have emigrated and have been trying to find employment opportunities for them. The voluntary agencies have also been supplying information regarding their experience in providing social welfare services for migrants.

RECOGNITION AND ENFORCEMENT ABROAD OF MAINTENANCE OBLIGATIONS

At its 17th session, in April 1954, the Economic and Social Council had before it two draft conventions, prepared by a committee of experts, which were designed to alleviate the situation of women and children abandoned by persons responsible for their support who had moved to another country. The Committee, which had been convened by the Secretary-General at the Council's request, had met in August 1952. At its 15th session in March 1953

the Council had postponed consideration of the question.

The first draft convention prepared by the committee, "Convention on the Recovery Abroad of Claims for Maintenance", was intended to make it easier for a dependant living in one country to obtain a valid and enforceable support order against a defaulter living in another country. The purpose of the second draft convention, "Convention on the Enforcement Abroad of Maintenance Orders", was to facilitate the enforcement in a foreign country of a support order issued by a court in the country of residence of the dependant.

While the first draft convention would assist primarily those abandoned dependants who had not obtained a support order in their country of residence, the second would assist those who, having obtained such a support order, were seeking to have it enforced in the country of residence of the defaulter.

The committee of experts reached the conclusion that the first draft could provide a solution compatible with the domestic legislation of the different countries and the constituent units of federal States. The second draft convention was submitted by the committee as a model which could be used by States for bilateral treaties or for national legislation so as to improve procedures for the enforcement abroad of family support orders.

The Council also had before it two notes by the Secretary-General on the draft conventions; resolution 734(VIII) of the General Assembly, requesting the Council to do its utmost to complete its work on this question; and the views expressed by two non-governmental organizations, the International Social Service and the International Federation of Friends of Young Women. An oral statement was made to the Council by the representative of the International Confederation of Free Trade Unions.

When the Council discussed the question in its Social Committee at four meetings on 5, 6 and 7 April, there was general agreement that the draft convention on the enforcement abroad of maintenance orders should, in accordance with the opinion of the committee of experts, be recommended as a guide for the preparation of bilateral treaties or uniform legislation.

With regard to the draft convention on the

recovery abroad of claims for maintenance, there was, however, some difference of opinion. Norway submitted a draft resolution proposing that this draft convention be transmitted to a conference of plenipotentiaries for completion and adoption. This proposal was supported by the representatives of Belgium and France. Other representatives, however, including those of Ecuador, Pakistan, the United Kingdom and the United States, considered that the matter did not lend itself to treatment in a general multilateral convention, particularly in view of the diversity of legal systems. Ecuador and the United States submitted a draft resolution by which the experts' report would be transmitted to governments "for information and such action as they may deem appropriate".

Other representatives, in particular the representative of Venezuela, while considering it premature to call a conference, thought that it would not be sufficient for the Council merely to transmit the drafts to governments. Argentina, Cuba and Venezuela, therefore, jointly proposed a compromise amendment to the Norwegian draft resolution proposing that the Secretary-General transmit the draft convention to governments and at the same time con-

sult them on their willingness to attend a conference to complete the drafting of this convention.

Following consultations between delegations a compromise draft resolution was submitted jointly by Belgium, Cuba, France and Venezuela which was adopted, as a whole, by 16 votes to none, with 2 abstentions both by the Social Committee and by the Council on 26 April. The Norwegian and United States draft resolutions were withdrawn.

In its resolution the Council asked the Secretary-General to transmit the report of the committee to governments; to ascertain from Members of the United Nations and of specialized agencies whether they considered it desirable to convene a conference of plenipotentiaries to complete the drafting of the convention and whether they were prepared to attend such a conference; and to report to the Council not later than at its 19th session in 1955. It also recommended that governments use the text of the model convention on the enforcement abroad of maintenance orders, annexed to the resolution, as a guide for the preparation of bilateral treaties or uniform legislation to be enacted by individual States.

DOCUMENTARY NOTES

For events prior to 1954, see Y.U.N., 1953, pp. 468-75.

WORLD POPULATION CONFERENCE

E/CN.9/113. World population conference, Rome, 31 August-10 September, 1954. Report by Secretary-General to Population Commission.

POPULATION STUDIES

The Population of Central America (including Mexico), 1950-1980. U.N.P. Sales No.: 1954.XIII.3.

Population Growth and the Standard of Living in Under-Developed Countries. U.N.P. Sales No.: 1954.XIII.7.

Foetal, Infant and Early Childhood Mortality. Vol. I. The Statistics. U.N.P. Sales No.: 1954.IV.7. Vol. 2. Biological, Social and Economic Factors. U.N.P. Sales No.: 1954.IV.8.

ST/SOA/Ser.A. Population Studies, No. 19. Multilingual Demographic Dictionary, provisory edition, June 1954.

MIGRATION

E/2544. Studies on internal migration. Memorandum by Secretary-General.

MAINTENANCE OBLIGATIONS

ECONOMIC AND SOCIAL COUNCIL — 17TH SESSION

E/AC.39/1 and Corr.1, 2 and Add.1. Report of Committee of Experts on Recognition and Enforcement of Maintenance Obligations, and statement by International Social Service.

E/2364 and Add.1. Note by Secretary-General.

SOCIAL COMMITTEE, meetings, 257-260.

E/AC.7/L.189. Ecuador and United States joint draft resolution (withdrawn).

E/AC.7/L.190. Norway draft resolution (withdrawn).

E/AC.7/L.190/Add.1. Secretary-General estimate of financial implications.

E/AC.7/L.191. Argentina, Cuba, Venezuela joint amendments to Norway draft resolution.

E/AC.7/L.192 and Rev.1. Argentina, Belgium, Cuba, France, Venezuela joint draft resolution and revision (adopted: operative paragraph 1 (b) by 12 votes to 1, with 5 abstentions and 1 (c) by 13 votes to 1, with 4 abstentions; draft resolution,

as a whole, by 16 votes to none, with 2 abstentions).

E/2567. Report of Social Committee.

PLENARY MEETING, 784.

RESOLUTION 527(XVII), as recommended by Social Committee, E/2567, adopted by the Council on 26 April by 16 votes to none, with 2 abstentions.

"The Economic and Social Council,

"Recalling its resolution 390H(XIII) requesting the Secretary-General to prepare a working draft of a model convention or of a model reciprocal law, or both, and requesting him to convene a committee of experts with a view to formulating the text of such instruments on the recognition and enforcement abroad of maintenance obligations,

"Having considered the report of the Committee of Experts on the Recognition and Enforcement Abroad of Maintenance Obligations,

"Having noted the importance of the question as reflected in General Assembly resolution 734(VIII),

"Taking account of the valuable work of social agencies in encouraging and facilitating voluntary fulfilment of family obligations and the progress made in reaching international understanding through bilateral and regional conventions,

"Recognizing the legal, social and economic difficulties which are to be overcome in the recovery abroad of claims for maintenance,

"1. Requests the Secretary-General:

"(a) To transmit the report of the Committee of Experts to governments for information and such action as they may deem appropriate;

"(b) To ascertain from States Members of the United Nations and those non-members of the United Nations which are members of any of the specialized agencies whether they consider it desirable to convene a conference of plenipotentiaries to complete the drafting of the Convention on the Recovery Abroad of Claims for Maintenance, and whether they are prepared to attend such a conference;

"(c) To report to the Council on the result of this consultation not later than the nineteenth session;

"2. Recommends to governments to use the text of the Model Convention on the Enforcement Abroad of Maintenance Orders [annexed hereto] as a guide for the preparation of bilateral treaties or uniform legislation to be enacted by individual States."

ANNEX: MODEL CONVENTION ON THE ENFORCEMENT ABROAD OF MAINTENANCE ORDERS (PREPARED BY THE COMMITTEE OF EXPERTS ON THE RECOGNITION AND ENFORCEMENT ABROAD OF MAINTENANCE OBLIGATIONS, GENEVA, 28 AUGUST 1952)

"PREAMBLE. Considering that the situation of dependants left without means of support by persons in another country constitutes a pressing humanitarian problem, and

"Considering that the prosecution or enforcement abroad of claims for maintenance gives rise to serious legal and practical difficulties, and

"Considering that it is therefore necessary to

facilitate the enforcement, in the territory of one of the Contracting Parties, of maintenance orders, as well as of other instruments subject to execution, rendered or concluded in the territory of the other Contracting Party,

"Wherefore the Contracting Parties have agreed as follows:

"ARTICLE 1: DEFINITIONS. In this Convention:

"(a) A 'maintenance order' is any judicial act of a court (judgment, decree, decision, order and the like) or provision thereof, whereby a person is required to make payment of a sum or sums of money towards the maintenance of any dependant, rendered in a proceeding brought in whole or in part for the purpose of enforcing a duty of support established by the law of the country where the order is made;

"(b) A 'court' is any judicial authority however described, competent to pronounce maintenance orders according to the governing domestic law;

"(c) An 'original court' is the court by which the maintenance order was given; and an 'enforcing court' is the court in which it is sought to obtain enforcement of a maintenance order;

"(d) A 'judgment creditor' is the person in whose favour the maintenance order was given; and a 'judgment debtor' is the person against whom the maintenance order was given.

"ARTICLE 2: CONDITIONS OF ENFORCEMENT. 1. A maintenance order pronounced by a court in the territory of one of the Contracting Parties shall be enforced in the territory of the other Contracting Party in the manner provided in this Convention if the following conditions are fulfilled:

"(a) The original court has jurisdiction in accordance with Article 3 of this Convention;

"(b) The order is enforceable in the country of the original court;

"(c) The order is not subject to review in the country of the original court;

"(d) Where the order was given by default, the enforcing court is satisfied that the judgment debtor actually received notice in sufficient time to defend the proceedings. If the enforcing court considers that this requirement has not been observed it may refuse enforcement even though such notice was served on the judgment debtor in accordance with the law of the country of the original court;

"(e) The order is not inconsistent with a prior judgment which as between the same parties, is recognized as *res judicata* under the law of the enforcing court. Enforcement may also be refused if, prior to the pronouncement of the order of the original court, an action on the same matter has been pending between the same parties before a court of the country where enforcement is sought;

"(f) The enforcement of the order would not be manifestly contrary to public policy in the country of the enforcing court.

"2. An enforcing court shall also grant enforcement to orders which are provisionally enforceable and to other interim orders, notwithstanding that such orders do not fulfil the condition laid down in paragraph 1(c), provided that the other conditions set forth in paragraph 1 are fulfilled and that the

enforcement of such orders is permissible under the law of the enforcing court.

"ARTICLE 3: COMPETENT COURTS. The following courts shall be competent to pronounce maintenance orders for the purpose of this Convention:

"(a) The courts of the country in which the respondent was resident when the proceedings were instituted;

"(b) The court to the jurisdiction of which the defendant submitted either expressly or by entering upon the merits of a matter without reservation as to jurisdiction.

"ARTICLE 4: APPLICATION FOR ENFORCEMENT. 1. In order that a maintenance order of a court in the territory of one of the Contracting Parties should be enforced in the territory of the other, an application for enforcement of the maintenance order shall be made to the court which is competent in accordance with the law of the country where enforcement is sought.

"2. An application shall be accompanied by:

"(a) A certified copy of the maintenance order;

"(b) Where the order was given by default, a certified copy of the notice of institution of the proceedings, and appropriate documentation showing that notice was received by the judgment debtor in sufficient time to defend the proceedings;

"(c) A certified translation of the documents referred to in sub-paragraphs (a) and (b) above, as may be required by the enforcing court.

"3. An application shall be made by or on behalf of the judgment creditor either directly to the enforcing court or through the appropriate authorities of the country of the enforcing court designated in article 13. In the latter case these authorities shall act without delay.

"ARTICLE 5*: GRANTING OF EXEQUATUR OR REGISTRATION. If an application is made in accordance with Article 4 the enforcing court, upon being satisfied that the maintenance order fulfils the conditions laid down in articles 2 and 3, shall grant execution of such maintenance order by exequatur or registration.

"ARTICLE 6*: EFFECT OF EXEQUATUR OR REGISTRATION. A maintenance order which has been granted an exequatur or registration shall, except as provided in article 8, have the same force and effect as if it had been originally obtained in the enforcing court, and in particular it shall be enforceable in the same manner as a maintenance order pronounced by that court.

"ARTICLE 7: ORDERS SUBJECT TO VARIATION AND ORDERS FOR PERIODIC PAYMENTS. 1. Subject to the provisions of article 9, paragraph 2, a maintenance order shall be enforceable in accordance with articles 5 and 6† notwithstanding that the amount payable under that order may be subject to variation by the original court.

"2. A maintenance order pronounced by an original court requiring the judgment debtor to make periodic payments shall, with respect to accrued and future instalments, be enforceable in accordance with articles 5 and 6† in the same manner as if the

order had been originally pronounced by the enforcing court.

"ARTICLE 8: VARIATION OF THE ORDER BY ENFORCING COURT. 1. A court having jurisdiction over the judgment debtor may, upon application made by or on behalf of the judgment debtor or of the judgment creditor, make such variation as the court thinks fit in the amount and rate of payments under the maintenance order.

"2. No maintenance order enforceable in accordance with articles 5 and 6† shall impose on the judgment debtor a liability to make payments in excess of the maximum (if any) permissible under the law in force in the country of the enforcing court.

"ARTICLE 9: NOTIFICATIONS. 1. Whenever an application for enforcement is received by an enforcing court, this court shall give notice to the original court through the appropriate authorities designated in article 13; the enforcing court shall also give notice to the original court of the granting or rejection of such application and of any variation made under article 8. Likewise, the original court shall give notice to the enforcing court, through the appropriate authorities designated in article 13, of any variation or setting aside of such order.

"2. An original or enforcing court receiving any notice in accordance with the preceding paragraph shall take whatever action may be appropriate, in conformity with the law of that court.

"ARTICLE 10: LAW GOVERNING PROCEDURE. The procedure and methods of enforcement shall, unless it is otherwise provided in this Convention, be governed by the law of the enforcing court.

"ARTICLE 11: EXEMPTIONS AND FACILITIES. 1. Judgment creditors residing or present in the territory of one of the Contracting Parties shall be given equal treatment, and shall be granted the same exemptions in the payment of the costs and charges incurred in any proceeding under this Convention, as residents in the territory of the other Contracting Party where enforcement is sought.

"2. If the law of the court requires any bond or other security of persons residing or present abroad, judgment creditors residing or present in the territory of one of the Contracting Parties shall be exempt therefrom in any proceeding under this Convention.

"3. No fees shall be chargeable for certification and legalization of documents in any proceeding under this Convention.

"ARTICLE 12: TRANSFER OF FUNDS. 1. In order to ensure and expedite the free transfer from one Contracting Party to the other of funds payable on account of maintenance obligations judicially established in the courts of a Contracting Party in the cases contemplated in this Convention, the Contracting Parties undertake, in case of exchange restrictions, to accord to such transfers the highest priority provided for capital services.

"2. The Contracting Parties reserve the right:

"(a) To take the necessary measures to prevent transfers of funds pursuant to paragraph 1 for pur-

poses other than the bona fide payment of existing maintenance obligations;

"(b) To limit the amounts transferable pursuant to paragraph 1 to amounts necessary for subsistence.

"ARTICLE 13: DESIGNATION OF APPROPRIATE AUTHORITIES. At the time of ratifying this Convention the Contracting Parties shall designate the appropriate authorities in their respective territories which shall be entrusted with the functions indicated in article 4, paragraph 3, and article 9 of this Convention. The Contracting Parties shall keep each other informed of any subsequent change in such designations.

"ARTICLE 14: ENFORCEMENT OF OTHER INSTRUMENTS SUBJECT TO EXECUTION. The Contracting Parties undertake to extend the benefits of this Convention to instruments (such as orders of administrative authorities or arbitral awards) other than maintenance orders, requiring a judgment debtor to make payments towards the maintenance of a judgment creditor, provided that such instruments are subject to execution under the laws of both Contracting Parties and that they comply with the conditions laid down in articles 2 and 3.

"ARTICLE 15: APPLICATIONS OUTSIDE THE CONVENTION. Nothing in this Convention shall preclude a judgment creditor from invoking any other provision applicable to the enforcement of maintenance orders, in accordance with the domestic law of the country of the enforcing court of any other Convention in force between the Contracting States.

"ARTICLE 16: RATIFICATION AND ENTRY INTO FORCE.

1. This Convention shall be ratified, and the instruments of ratification shall be deposited with the Ministry of Foreign Affairs of ...

"2. This Convention shall come into force on the thirtieth day following the day of deposit of the second instrument of ratification.

"ARTICLE 17: DENUNCIATION. Each Contracting Party may denounce this Convention by written notification to the other. A denunciation shall take effect one year after the date of receipt of the notification.

"ARTICLE 18: SETTLEMENT OF DISPUTES. Any dispute which may arise between the Contracting Parties concerning the interpretation or application of this Convention which is not settled by negotiation, shall at the request of either Contracting Party be referred to the International Court of Justice or, in case the latter should not have jurisdiction, to an arbitrator appointed by the President of the Inter-

national Court of Justice, for decision, unless the Contracting Parties agree to another mode of settlement.

"ARTICLE 19: LANGUAGES AND REGISTRATION. 1. The ... texts of this Convention shall be equally authentic.

"2. This Convention shall be registered with the Secretary-General of the United Nations."

"* Articles 5 and 6 are applicable to States whose legislation provides for the exequatur or registration procedure. If this procedure is known only to one of the two Contracting Parties, articles 5 and 6 should be replaced by the following article:

"ARTICLE 5 ENFORCEMENT OF MAINTENANCE ORDERS. 1. If an application is made in accordance with article 4 to the competent court in [State A], such court, upon being satisfied that the maintenance order fulfils the conditions laid down in articles 2 and 3, shall grant execution of such maintenance order by exequatur or registration. A maintenance order which has been granted an exequatur or registration shall, except as provided in article 8, have the same force and effect as if it had been originally obtained in the enforcing court, and in particular it shall be enforceable in the same manner as a maintenance order pronounced by that court.

"2. If an application is made in accordance with article 4 to the competent court in [State B] such court, upon being satisfied that the maintenance order fulfils the conditions laid down in articles 2 and 3, shall pronounce a new order based upon the recognition of the maintenance order pronounced by the original court. This order shall be enforceable in accordance with the law of the territory of the enforcing court.

"If the exequatur or registration procedure is unknown to both Contracting Parties, articles 5 and 6 should be replaced by the following Article:

"ARTICLE 5: ENFORCEMENT OF MAINTENANCE ORDERS. If an application is made in accordance with article 4 the enforcing court, upon being satisfied that the maintenance order fulfils the conditions laid down in articles 2 and 3, shall pronounce a new order based upon the recognition of the maintenance order pronounced by the original court. This order shall be enforceable in accordance with the law of the territory of the enforcing court."

† In the cases contemplated in footnote*, the words 'and 6' should be omitted."