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**THE INTEGRATION
OF PRISON LABOUR WITH
THE NATIONAL ECONOMY,
INCLUDING THE REMUNERATION
OF PRISONERS**

REPORT PREPARED BY THE SECRETARIAT

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CHAPTER I

INTRODUCTION

1. The purpose of this working paper is to present to the Congress, as an aid to its discussions, a concise analysis of the basic questions raised by the integration of prison labour with the national economy and by the remuneration of prisoners. The two questions have been discussed and analysed with the following in mind: (a) the Standard Minimum Rules for the Treatment of Prisoners, approved by the 1955 Geneva Congress, with particular attention to those dealing with prison labour; (b) the Recommendations of that Congress concerning prison labour; and (c) the Recommendations concerning open institutions and the selection and training of personnel for penal and correctional institutions, also approved by the aforementioned Congress.^{1/} It is important to note that the above-mentioned Rules and Recommendations were approved and adopted by the Economic and Social Council. The Council brought them to the attention of Governments, recommending that the latter bear them in mind in the administration of penal and correctional institutions and in the preparation of legislative and administrative reforms.^{2/}

2. The integration of prison labour with the national economy and the remuneration of prisoners, particularly in relation to the principle that prisoners should be paid for their work on the basis of normal wages paid in the free labour market, were recommended by the Geneva Congress as matters warranting continued study. To some extent, these questions were considered by the United Nations Seminars for Asia and the Far East (Tokyo, 1957) and for the Arab Countries (Copenhagen, 1959) on the Prevention of Crime and the Treatment of Offenders. They were given closer study by the European Consultative Group on the Prevention of Crime and the Treatment of Offenders at its Geneva sessions of 1954 and 1958. During those discussions, the Secretariat had an opportunity of setting forth

^{1/} In order to reduce the number of references and footnotes in the text, organs or documents mentioned will be entitled very briefly. Full references to both will be found in the list of documents contained in the Annex.

^{2/} See Economic and Social Council resolution 663 C (XXIV) of 31 July 1957.

its views on the two questions. Then, as now, those views were based on the following principles:

- (a) The principle of equal pay for equal work, established by the Universal Declaration of Human Rights;^{3/}
- (b) The protection of society against crime as the justification for a sentence of imprisonment can only be achieved if, upon his return to society, the offender is able to lead a law-abiding and self-supporting life (Minimum Rule No. 58);
- (c) The régime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings (Rule 60). The treatment of prisoners should emphasize, not their exclusion from the community, but their continuing part in it (Rule 61);
- (d) Prison labour must not be of an afflictive nature, but should be regarded as a means of furthering the rehabilitation of the prisoner, his training for work and the forming of better work habits, and of preventing idleness and disorder (Recommendation I and Rule 71);
- (e) The interests of the prisoners must not be subordinated to the purpose of making a financial profit from an industry in the institution (Recommendation II, Rule 72);
- (f) The organization of prison labour, including measures for the prisoners' physical safety and social welfare, should be as much as possible like that of free labour, so as to enable the prisoners to adapt themselves to the conditions of normal economic life (Recommendations III and VI; Rules 72 and 74);^{4/}

^{3/} Article 23 of the Declaration states: "1. Everyone has the right to work to free choice of employment, to just and favourable conditions of work and to protection against unemployment. 2. Everyone, without any discrimination, has the right to equal pay for equal work. 3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. 4. Everyone has the right to form and to join trade unions for the protection of his interests."
In citing this Article, no claim is made that it should apply to the prisoner in its entirety. As will be seen, the juridical status of the prisoner imposes important limitations on its application.

^{4/} In a more general way, rights relating to social security and other social benefits. See Rule 61, final sentence.

(g) The prisoner should receive an equitable remuneration for this work, so as to stimulate his interest and industriousness; it should be sufficient to enable him to acquire articles for his personal use or needs, to help (at least in part) his family and to indemnify the victims of the offence, as well as to constitute a savings fund for delivery to him on his release (Recommendation VII and Rule 76).

3. Obviously the solution of the problems of integration and remuneration which are here discussed cannot be immediate and universal. Any solution must take into account the variety of circumstances in each country. But it seems reasonable to say that although at present certain difficulties exist, they should, as has been frequently stated, not be regarded as insurmountable, not be exaggerated or consistently invoked as an argument against the progressive but speediest possible integration of prison labour with the national economy, and the remuneration of prisoners on a basis of equality. Achievement of both these ends appears to be the procedure most in keeping with the principles enumerated. As these principles were approved or recommended by the United Nations and the latter is to assume leadership in promoting, on an international basis, activity in the field of the prevention of crime and the treatment of offenders,^{5/} the Secretariat has attempted to follow them as closely as possible in its analysis of the problems arising from the integration and remuneration of prison labour.

^{5/} According to Economic and Social Council resolution 155 C (VII) of 13 August 1948.

CHAPTER II

SUMMARY OF INTERNATIONAL DISCUSSIONS ON THE ORGANIZATION, INTEGRATION AND REMUNERATION OF PRISON LABOUR

4. Although the organization of prison labour and its integration and remuneration are closely connected questions, they have, until recently, been dealt with in isolation. Thus, from the London Congress of 1872 and to the Geneva Congress of 1955, there is as regards the concept of prison work a whole process of development, showing that any solution applied to each of the three questions - organization, integration and remuneration - will depend primarily on how prison labour is envisaged. Other factors which still play some part in the satisfactory solution of these problems are, on the one hand, the attitude of public opinion and of workers' and employers' organizations and, on the other, the standpoint adopted by national Prison Administrations.

5. Prison labour has been regarded by some as a duty upon the prisoner, and by others as his right. A third view is to the effect that it is part of the prisoner's treatment. More recently, and owing to acceptance of the notion that the organization of prison labour should so far as possible resemble that of free labour, the idea that prison labour should be regarded as a normal activity of the prisoner, like all work performed by persons not under constraint, has begun to emerge at the latest international meetings.^{1/} This concept, because of its flexibility, seems calculated to overcome, in large measure, the difficulties of implementation arising from the unduly rigid theories to the effect that prison labour is a right, is a duty, or is part of a treatment. This is further borne out by the fact that Prison Administrations cannot provide work at all times. Moreover, the kind of work provided cannot always be regarded as therapy or as something which in effect contributes to the prisoner's social rehabilitation. The idea of work as a normal prison activity appears to facilitate the organization of prison labour. As a normal activity, such labour is also better adapted to the special juridical status in which the prisoner is placed once he has been sentenced. That status, evolved through a gradual process,

^{1/} See in particular the discussions and conclusions of the Hague Congress, 1950, the Geneva Congress, 1955, and the European Consultative Group, Geneva, 1958.

is not designed with a view to a deprivation or denial of rights. It merely presumes a restriction on the exercise of the rights which the prisoner already possesses. The gradual process referred to is reflected in the Standard Minimum Rules, in which a great variety of other special rights are recognized, such as the prisoner's right of complaint, his right to inform his family of his detention or transfer, or his right to communicate with a representative of his religious faith. Those rights clearly demonstrate the improved juridical status nowadays granted to or recognized as enjoyed by the prisoner. This situation seems very different from that existing even until comparatively recently, where the prisoner had virtually no rights at all and prison labour was regarded as an obligation.^{2/} To this general recognition of a better juridical status for the prisoner must be added the specific provisions of the Standard Minimum Rules, which place prison labour virtually on the same footing as free labour. The provisions in question specify that the same precautions as those laid down to protect the safety and health of free workmen shall be observed in institutions; that measures shall be taken to indemnify prisoners against industrial injury, on terms not less favourable than those extended by law to free workmen; and that the maximum working hours of the prisoners shall be fixed, taking into account local rules or custom in regard to the employment of free workmen. If to these provisions is added the principle that the organization and methods of work within institutions shall resemble as closely as possible those of similar work outside institutions, the conclusion would be that, with one exception, the Standard Minimum Rules^{3/} clearly require the integration of prison labour with free labour. The exception, however, is fundamental, in that it relates to remuneration - which is, nevertheless, to be equitable.

6. Since the Hague Congress of 1950, efforts have been made to resolve the problem of remuneration - not only because it would be anachronistic to organize prison labour in the same way as free labour except in regard to remuneration, but because of the more important consideration that, without adequate remuneration, it would appear to be much more difficult to achieve the prisoner's rehabilitation. As a result, study of the integration and remuneration of prison labour was

^{2/} This recognition of a better juridical status for the prisoner is reflected in article 8 of the draft International Covenant on Civil and Political Rights. See United Nations document A/3824.

^{3/} See Rules 72, 74 and 75.

recommended in 1954 by the European Consultative Group. It was argued at that time that consideration should be given to the possibility of placing the remuneration of prison labour, and that of free labour, on the same footing, Guided by these principles, the Secretariat stated at the Geneva Congress that these questions would require adequate study. The proposal was accepted and became one of the items discussed by the European Consultative Group at Geneva in 1958. Although certain objections were raised during the discussion, the consensus of opinion may be summarized as follows:

- (a) since the present system provides neither sufficient work nor a decent remuneration, other methods should be sought for fitting prison labour on a wider scale into the national economy;
- (b) despite successive resolutions of international congresses in favour of the principle of equal pay for equal work in respect of prison labour, no country has yet put that principle into operation;
- (c) solution of the problem of remuneration depends to a large extent on the solution of the problem of integration;
- (d) every effort should be made to convince public opinion that prison labour forms part of the national economy and should therefore not be regarded as an isolated sector; and
- (e) Governments should undertake experiments in the direction indicated, with the object of bringing the remuneration of prisoners as quickly as possible up to a level compatible with the dignity of labour and mankind.^{4/}

^{4/} See the relevant report, particularly pages 11-12 and 84-88. Prior to the meeting of the same Consultative Group held in August 1958, the Ad Hoc Advisory Committee of Experts on the Prevention of Crime and the Treatment of Offenders, in May 1958, had recommended that the integration and the remuneration of prison labour were questions which should be taken up by the present Congress.

CHAPTER III

BRIEF ACCOUNT OF THE PRESENT SITUATION

7. It is difficult to arrive at an exact appraisal of the situation with regard to prison labour, because of the lack of adequate statistics and the tendency to present the situation in a way which is not always conducive to impartial judgement. The difficulty is increased by the frequent use of a number of terms, whereby for instance the word "labour", which has a clear and precise meaning, is replaced by the sometimes vaguer "employment", "institutional employment", "occupation", etc. It is evident that, even if any form of labour signifies "employment" and "occupation" in prison terms, these two latter words do not necessarily imply labour in the correct sense. Yet an increasing number of published statistics refer more to "occupations" than to effective and constructive labour.

8. Another tendency to be observed is that of describing as vocational training what appears, sometimes, to be merely a form of ordinary labour or an occupation. Publications often refer to a wide range of vocational occupations or activities as something permanently organized by the prison authorities. In view of the generally accepted fact that prison authorities cannot always provide constant employment, or that the work assigned is too often rough and monotonous, the logical conclusion seems to be that such references and statistics must be treated with reserve.

9. It may also be frequently observed that a number of publications, though alluding in this way to the variety of vocational activities and occupations, the equipment of workshops and increasing production figures, do not usually mention any remuneration for such labour. Yet despite these and other difficulties, the general trend, in a great many countries, indicates an improvement in the situation. Some of these countries - and this fact is significant - cannot be regarded as highly developed. Given the limits of this report, the following references are in the nature of illustrations and do not claim to be exhaustive.

10. The position of prison labour in most countries of the world was described by the Geneva Congress as being most unsatisfactory.^{1/} A similar view was

^{1/} See Report, paragraph 230 et seqq.

expressed by the European Consultative Group in 1958, especially with regard to remuneration and the integration of prison labour. According to the conclusion of the Second Asia and the Far East Seminar, the remuneration, in countries of that region, was so small that it was doubtful whether a monetary significance could be attached to it. At the same time the somewhat curious statement was made that remuneration of prisoners constituted no special problem. With regard to integration, it was stated that integration would be of considerable value in the rehabilitation of the prisoner.^{2/} At the second Seminar for Arab Countries, held in 1959, a recommendation was made that, in order to improve the present situation, prison labour should be integrated with the national, regional and local economy. Such integration would facilitate the rehabilitation of the prisoner and the solution of the problem of how to make remuneration as equitable as possible.^{3/}

11. With regard to the general position of prison labour in the United States of America, the American Correctional Association has stated that, unless the present situation is improved, it will be necessary to abandon the idea that prisons are institutions of correction or reform and that adult prisoners can be released from such institutions better and not worse than when they entered. The Association also made the point that prison industries had been an obvious failure. Now that the prison population of the United States is approaching 180,000, the lack of industrial facilities for employing the large percentage of prisoners for whom work is not available is posing serious problems of custody, discipline and management.^{4/} In the Federal Prison Administration, which was responsible for an

^{2/} See Report of the Tokyo Seminar, pp. 20-21.

^{3/} The Report of this Seminar will be published shortly.

^{4/} See A Manual of Correctional Standards, published by the American Prison Association, New York, 1954, pp. 273 et seqq. The second edition of this Manual published in 1959 by the Association now known as the American Correctional Association again stresses the importance of prison labour and refers to the far too prevalent state of idleness in which prisoners are kept, and which is demoralizing and dangerous. See pp. 375-391. Except for other specific references, the data concerning countries quoted later in the text are taken from Prison Labour, United Nations publication, Sales No. 1955.IV.7; from replies, to a questionnaire on prison labour, submitted to the 1958 Geneva session of the European Consultative Group by the Government of Denmark; and from Durchführung der Gefangenearbeit im Strafvollzug, by Ludwig Stobbe, in Materialien für Strafrechtsreform, 8 Band Zweiter Teil, Bundesministerium der Justiz, Bonn, 1959, pp. 91-210.

average prison population of approximately 22,000 for the year ending 30 July 1959, the data concerning remuneration may be analysed as follows: 4,356 prisoners were employed in industrial work and received an average remuneration of \$396 a year or \$33 per month; 7,659 were employed in non-industrial occupations and received remuneration, based on outstandingly good work, of \$38.75 a year, i.e. a little more than \$3 per month; the remaining prisoners, approximately half of the prison population, received no payment of any kind. In Belgium, remuneration varies from 1 to 4.5 francs per hour, according to the type of work. For piece-work, remuneration is increased by 25 per cent. The minimum wage for free labour is 20 francs per hour, though in some cases it is 23, 24 or 25 francs per hour.^{5/} In England, the average remuneration in most cases is 2s 7d per week. For piece-work it may vary from 3s to 7s per week, the basic minimum being 1s 8d and the 7s being paid for work of an exceptional nature. In the Netherlands, prisoners receive modest remuneration. Only those employed in certain open institutions by private industry receive the regular wage of the free worker. The remuneration is however paid directly to the Prison Administration, which pays to the prisoner only the standard prison wage. In France, under the Penal Code the prisoner is legally obliged to work and, in the absence of a contract, has no legal right to any payment for his labour. The regulations provide, however, for the accumulation of funds calculated on the basis of work done. The amount accruing is determined primarily by the nature of the sentence imposed. Consequently it is difficult to arrive at a figure for the average "remuneration" in France in recent years. According to statistical data for 1958, the proportion of "employed" prisoners was 48 per cent out of a total prison population of 28,386 at the end of the year. Apparently, in 1957, out of a prison population of 23,360 only about 1,000 prisoners worked outside the prison confines. If account be taken of the sums set aside in 1957 and 1958 as disposable funds and reserves, the maximum of 15,000 francs allotted to the latter, and the average amounts of the

^{5/} Information on the United States was supplied by Mr. J.V. Bennett, Director, Federal Bureau of Prisons, Department of Justice, United Nations Social Defence Correspondent; and on Belgium by Mr. J. Dupreel, Director-General of the Prison Administration, and also United Nations Correspondent. In both cases the information was received in February 1960.

disposable funds, the conclusion would be reached that "remuneration" is very small.^{6/} In Denmark, the "remuneration" does not correspond to the free wage for the same work. In 1955, according to Stobbe, the maximum paid was 120 öre per day. In cases where special agreements have been concluded between the Prison Administration and a private undertaking, the regular wages are paid to the Administration and the prisoner receives a percentage varying with the wage ("remuneration stage"). When, during the final period before release, the prisoner works outside the prison for a private undertaking, the regular wages, although technically belonging to the Administration, are reserved for the prisoner, less a small percentage deduction in respect of maintenance in the institution. In Norway, the average "remuneration" is Kr. 2.40 per day, while the average wage of a free unskilled worker is Kr. 43 per day. In special cases, when the work is done outside the prison, of a wage agreed upon between the Administration and a private undertaking, which may be between Kr. 40 and Kr. 50 per day, the amount credited to the prisoner may be as much as 50 per cent. In Sweden, the "remuneration" is small and is generally paid on a piece-work basis. The principle of equal pay for equal work has been applied as an experiment in the Vangdalen institution, with apparently successful results. In Finland, the system of recompense is generally adopted. The amount credited to the prisoner depends not only on the work done but also on his conduct and category. In some open institutions, however, the regular wage is paid and the prisoner sometimes receives as much as 75 per cent of the wage paid in the free labour market. This system is applied to one fifth of the prison population. In Italy, according to Stobbe, the remuneration varies between 150 and 400 lire per day. In Spain, the amount of payment for prison labour is fixed in accordance with a system of classification based on the equivalent wage for free labour. In the piece-work system the wages per unit produced must not be less than 75 per cent of the amount paid for "free" work. In the Netherlands, the minimum recompense is 0.25 and the maximum 0.50 florings per day. The minimum wage for an unskilled workman in the free labour market is 1.50 florins per hour. Prisoners may receive in special cases, according to the quantity and quality of the work done, increases of between 0.05 and 0.60 florins per day. Prisoners working outside the prison,

^{6/} See General Budget Reports for 1957 and 1958 published by the Ministry of Justice, Department of Prisons and information supplied by the latter Department in annexes to the Report of the European Consultative Group's 1958 session. The remuneration probably does not exceed 200 to 250 francs per day. According to Stobbe, the average remuneration in 1953 was 114 francs for each day's work.

in the free labour market, receive, in addition to the remuneration mentioned, 40 per cent of the corresponding free wage; the remaining 60 per cent is paid to the Government. In the Federal Republic of Germany, remuneration varies according to the arrangements in force in the different States (Länder). In North Rhine-Westphalia, for instance, employers using prison labour must pay, with certain deductions, the regular wages of free labour. Thus they pay 85 per cent of the wage of a free unskilled worker - that is, DM 1.16 per hour instead of DM 1.36 per hour. In the case of skilled labour, payment is between 70 and 80 per cent of the free wage, which ranges from DM 1.50 to DM 2 per hour. In all other cases, prisoners - although they have no legal right to payment - receive a gratuity, varying between DM 0.20 and DM 0.80 for a day's work; the maximum that may be earned is DM 15.00 per month.^{7/}

12. In Asia and the Far East there is no remuneration for prison labour; at the most, a small gratuity is paid. In Burma and Pakistan, for instance, no system for payment exists, though it seems that the introduction of a gratuities scheme is being considered. A system of remuneration operates in certain parts of India, and in Ceylon. In China a system of gratuities has been in force since 1946; they must not be less than 20 per cent of the free wage paid for similar work. Japan has no regular system of remuneration. Income in respect of prisoners' labour is paid to the Treasury; but prisoners receive rewards designed to stimulate good work. In Indonesia a system of rewards for the same purpose is in operation, but such gratuities cannot compare with free wages. In Hong Kong, remuneration varies between 0.40 and 1.20 Hong Kong dollars weekly, and is apparently regarded simply as an incentive. A similar situation exists in the Arab countries, where there is no remuneration except, at the most, in the form

^{7/} The information on Norway was supplied in February 1960 by Mr. J. Halvorsen, Director of the Prison Administration, and United Nations Social Defence Correspondent. That on Sweden was supplied, also in February 1960, by Mr. T. Eriksson, First Section Secretary, Ministry of Justice, with the indication that the remuneration for industrial work had recently been increased by 40 to 50 per cent. The information on the Netherlands was furnished in March 1960 by Mr. E. Lamers, Director-General of the Penitentiary Administration, and United Nations Correspondent. That on the Federal Republic of Germany was supplied in March 1960, by Dr. M. Dallinger, Assistant Under-Secretary to the Federal Ministry of Justice.

of incentives, rewards or gratuities. In some countries of these regions the organization of prison labour is not as fully developed as the Government themselves would wish.^{8/}

13. In Latin American countries, remuneration is not paid to prisoners, or is generally limited to small gratuities. As in other continents, it is not always possible for Prison Administrations to provide work, workshops or tools. In Guatemala, the State "employs" only a small proportion of the prisoners, probably not more than 5 per cent; and the same may be said of Ecuador and Bolivia. None of these three countries has a central Prison Administration. In Bolivia, the concession of prison labour to private undertakings has been discontinued, owing to certain abuses. Prisoners are allowed to work on their own account, and are given certain facilities for that purpose. In Ecuador, prison labour is not organized by the State, and no remuneration or regular gratuity of any kind is paid. The situation is somewhat similar in Peru, Chile, Colombia and Costa Rica, where Prison Administrations exist but cannot always maintain adequately equipped workshops and a steady flow of regular employment, or pay even modest remuneration. In Colombia, however, the regulations indicate methods for the apportionment of the gratuity or remuneration. Percentages vary according to cases and according to whether the prisoner supplies his own clothing and food. Although prisoners are theoretically forbidden to find employment on their account, this practice is tolerated in view of the fact that the Administration cannot always provide work. In Mexico, not all the Administrations of the different States can provide regular employment or pay a gratuity. The new Federal District regulations drafted in 1959, while dealing with prison labour, do not establish any fixed standard of remuneration. Apparently, although prison labour cannot be hired out to private undertakings, the Prison Administration has not yet been able to organize a regular labour system of its own. The result is that the prisoners are continuing to organize themselves in small workshops of a more or less co-operative nature. Generally the prison authorities assist them in marketing and selling their work. In Brazil, as in Mexico, it is difficult to assess the position, given the number of different prison systems arising out of the country's federal structure. In several Brazilian States the organization of prison labour

^{8/} For the countries of Asia see the national statements submitted to the Tokyo Seminar of 1957, and for Arab countries the statements made at the Copenhagen Seminar of 1959.

is still on a modest scale, and there is no remuneration. In others, like Sao Paulo, a system of "remuneration" has been introduced and in certain open institutions the prisoner can cultivate a piece of land on his own account. The recent Brazilian draft Prison Statute of 1957, apparently Federal in scope, mentions paid work but fixes no minimum basis. In Argentina, the National Prison Act of 1958 establishes the principle of remuneration but leaves the rates to be fixed by regulation. Apparently the amounts of remuneration are determined by a system of proportions related to the wages paid in the outside world. In any case, the rates of remuneration in the country have recently been increased and it seems clear that the improvement in this matter will continue.^{9/}

^{9/} See Report of the Rio de Janeiro Seminar and the documents submitted for the Seminar. The prison rules and regulations of various Latin American countries, and information in possession of the Secretariat, have also been consulted.

CHAPTER IV

OBJECTIONS TO THE INTEGRATION OF PRISON LABOUR WITH THE NATIONAL ECONOMY AND TO THE REMUNERATION OF SUCH LABOUR IN CONFORMITY WITH THE PRINCIPLE OF EQUAL PAY FOR EQUAL WORK

14. The existing confusion as to the exact meaning of the integration of prison labour, and as to what is implied by the remuneration of that labour, makes it difficult to identify, separately, the objections raised against each of these aims. Integration and remuneration are often discussed and criticized at one and the same time. The greatest number of objections usually come from the administrators of penal institutions. Such objections are, generally speaking, based on what are called "practical difficulties"; they are to the effect that integration and remuneration, although desirable, are not feasible, because of the administrative or practical difficulties which their introduction would raise. Other objections are put forward by those who regard prison labour as part of a treatment and, while raised from a medical and psychological standpoint, in practice amount to the same conclusion as that reached by eminent administrators - namely, that although improvements in the field of prison labour are required, its integration and remuneration on an adequate scale are not indispensable. The prevailing tendency, clearly manifested both at the Geneva Congress of 1955 and in the 1958 discussions of the European Consultative Group, is to take the view that integration and remuneration are basic problems, upon the solution of which the rehabilitation of the prisoner, a reduction in recidivism and, generally speaking, the greater effectiveness of prison systems must largely depend.

A. OBJECTIONS TO INTEGRATION

15. It is difficult to establish to what extent objections to integration are directed at integration itself or at the fact that it would involve rates of remuneration higher than those currently paid. The discussions on integration give the impression that the question of remuneration is an important factor in the rejection of integration. This linking of the two questions explains why certain objections are raised against integration and remuneration alike. As it will subsequently be sought to show, the connexion between them is not so close as is usually believed. To some extent the two questions can be considered separately, as has in fact occasionally happened in the case of integration. With these reservations, the main objections to integration may be formulated thus:

(a) Prison labour is usually of poor quality and limited in output, so that economically its integration with the national economy is of no very great importance. This objection has evoked the comment that, although "economic integration" is spoken of, this expression implies something more than a mere economic consideration of the problem. Prison labour may be as valuable, in an economic sense, as the work produced by other small-sized social groups within a country's general economy. Thus the integration of a certain type of work is one thing, and its economic importance is another. The fact that a given type of work is of little economic significance does not necessarily mean that it should not be integrated with the national economy. As for the quality of prison labour, statistics and experience seem to indicate that, although it may be inferior, it is often no worse than that of corresponding work produced by free labour.

(b) Integration would mean the conversion of prisoners into workmen. This view, voiced in the discussions of the European Consultative Group in 1958, seems to be based on the idea that prison labour has other aims, especially the more important one of rehabilitation. To this confusion of terms it has been replied that integration and the making of the prisoner, so far as possible, into a real workman instead of an "occupied" person facilitate his rehabilitation; that rehabilitation is not being achieved by the present system; and that in many cases the prisoner has previously been a workman and will probably continue to be one after his release. There can thus be no special danger in maintaining his status as a workman.

(c) Integration would bring the Government into competition with private industry. This objection seems to arise from the belief that integration would involve the organization by the State of all labour, for its own profit. In actual fact, as has repeatedly been pointed out, the integration of prison labour with the national, regional and local economy requires, if it is to be effective, the use of systems not under State control - including direct participation by private enterprise. When the latter takes a hand in the organization, remuneration, production and distribution of prison labour and its products, State competition with such private industry ceases to exist.

(d) Vocational training of the prisoner does not permit the integration of prison labour. To this objection it has been replied that all prisoners do not need vocational training and that, in free labour, such training in no way prevents the work from being part of the general economy. It has also been stated that,

in order to be really effective, vocational training should be organized within a framework of economic integration and not within an artificially economic unit; and further that, given the number of prisoners who really need and are able to receive vocational training, the point has no more than relative importance.

(e) Integration impedes the application of psychiatric treatment. To this it has been replied that not all prisoners need a form of special treatment, psychiatric treatment being needed least of all; that should such treatment nevertheless prove necessary, it can be given to prisoners working outside as well as inside the prison; and that the economic integration of a particular form of labour does not depend on whether or not some of the workers need psychiatric treatment. In more general terms, it has repeatedly been said that the importance and necessity of psychiatric treatment must not be exaggerated.

(f) Consideration of prison labour as a treatment or part of a treatment is incompatible with integration. This objection has been repeatedly countered by the argument that, unless a very imprecise view of what constitutes treatment is taken, this term can hardly be applied to what is often meted out by Prison Administrations. The making of mail-bags, brushes, brooms, feather dusters, dish-clouts, mats and other objects can scarcely be described as pertaining to a form of treatment - rather the contrary.

(g) There are "practical difficulties" which integration would involve and which make it undesirable - in other words, so it would seem, greater administrative complications in the organizing of prison labour, the keeping of records and accounts in respect of it, and the selecting of the prisoners; greater staffing costs, and so forth. To this the reply has been that such objections are exaggerated and that the problems mentioned are not insoluble; and, more weightily, that the application of a principle otherwise recognized as desirable should not be abandoned on grounds of administrative difficulties. If those difficulties were as formidable as the objectors have implied, no progress in the matter of prisons would have been possible.

(h) Domestic or upkeep-and-maintenance work within the prisons cannot be integrated with the national, regional or local economy. This argument, it has been pointed out, would seem to imply that economic value attaches only to certain kinds of work and not to others. Such a distinction would not appear to be applicable to the concept of labour and to the different ways in which it can be performed. The problem here is apparently one of remuneration rather than of integration. In fact, within the limited economy of a penal institution, the

domestic tasks of repair, upkeep or maintenance, although little or no remuneration is paid in respect of them, are at present integrated with the institution's economic organization. Such integration without remuneration has its origin in the concept that the prisoner, simply because he is a prisoner, must perform certain material tasks for the benefit of the Prison Administration. It seems impossible to reconcile such a concept with the aims and principles of the Standard Minimum Rules and modern penology.

B. OBJECTIONS TO REMUNERATION

16. As already pointed out, the objections raised against the remuneration of prison labour on a basis of equal pay for equal work cannot always be distinguished from those raised against its integration with the national economy. The following objections can, however, to some extent be identified:

(a) A system of remuneration on such a principle of "equality" would lead to payments at a whole series of different levels, according to the various classes of work, in the same establishment - which would mean discrimination among prisoners. To this objection it has been replied that such an allegation of discrimination is baseless, and that in the outside world no one regards different levels of payment for work, according to its quality, importance and technical difficulty, as discrimination. The same could apply to prisons. Discrimination does however arise if prison labour is not remunerated or is remunerated in a way that cannot be regarded as economic. It has been added that a number of Administrations do in fact engage in a form of discrimination by remunerating such labour (though to a very small extent) partly in respect of factors quite unconnected with it.

(b) The poor quality of prison labour renders normal remuneration impracticable. This objection, it has been argued, overlooks the fact that quite often the prisoner had had previous experience as a worker - sometimes as a skilled worker - and that free labour is frequently unskilled labour, although this does not prevent it from being suitably rewarded as such. It has also been pointed out that in some countries, where the prison authorities are in a position to supply the necessary materials and equipment, the products are no less good in quality than those produced outside. For example, in a number of countries the furniture for various government offices, the uniforms of certain public officials (including army uniforms), and footwear and equipment for various purposes are largely manufactured in the prisons - apparently with excellent results. In other countries, better equipped with workshops, the prisons produce a wide variety of goods whose quality leaves little to be desired.

(c) Equal pay would be incompatible with the "State use" system, whether the State be contractor or consumer. This objection is apparently based on the argument that that system is the only acceptable one. Yet it seems clear that in practice the "State use" system has to a great extent proved a failure; in any case, it is not the only one deserving consideration. Furthermore, there is no reason why the State, with more intensive organization, should not apply the principle of equal pay.

(d) Another objection, connected with the previous one, is that equal pay would result in a huge increase in prison costs, to the clear disadvantage of the taxpayer. This objection, it has been said, overlooks the fact that the cost of crime has risen in practically all countries, mainly because of the increase in recidivism. Although this rise in cost is due to a number of different factors, neither the present system of prison labour nor the help given to ex-prisoners by associations, by social services and in the form of the savings received by prisoners on their liberation have done anything to counteract it. The social and economic ineffectiveness of the whole system could be adduced in support of the view that something better should be tried. It seems reasonable to say that maintenance of after-care in its existing form has not solved the problem. After years of labour in a prison, the prisoner's financial resources are usually so small that he cannot, for a time, manage on his own. More often than not they are so slender - even if he has received gate-money - that the administration is compelled to provide him with a suit of clothes and a railway ticket. These practices, though having the laudable object of helping the prisoner, smack disagreeably of charity, and in any case point to the ineffectiveness of present systems in the matter of labour. Much of the cost and many of the problems connected with the prisoner and his family could be lessened if, on his release, he had some money of his own. It would also help if during his imprisonment he could provide, at least in part, support for his family, which usually has to be supplied - sometimes in toto - by the social services, when these exist. The problem is a far-ranging one and raises the question - which merits further examination - of the system that is most expensive for the taxpayer and society as a whole: the present system, based on the inadequate organization and low remuneration of prison labour and imposing a series of financial burdens on prison and social services in respect of the prisoner and his family, or some other system, based on a level of remuneration sufficient to alleviate such burdens.

(e) Another objection is that equal pay would not suffice to serve as an adequate incentive or to develop the prisoner's sense of responsibility, since he would not be in personal charge of his own wages and certain deductions would be made without his consent. This argument has called forth the following observations: if equal pay does not provide adequate incentive, it seems logical to conclude that the absence of any remuneration, or the payment of the small amounts regarded as remuneration, must be even less productive of incentive. With regard to a sense of responsibility, it would be difficult to accept the argument that the remuneration (if any) at present paid does anything to develop it. So far as consent is concerned, no more need be said than that in the outside world such consent is quite often assumed by the law, which provides for automatic deductions. A similar procedure could be followed in connexion with equal pay in prisons, in the case of deductions required by law. This is in fact what happens under the present system, without the issue of consent being brought up as an argument against an increase in remuneration.

(f) Care and maintenance work for a prison cannot be remunerated in the same way as comparable forms of free labour. This objection, it has been argued, is a very minor one if it is assumed that care and maintenance work is reduced to its proper proportions. Moreover there is nothing to prevent the proper remuneration of maintenance work and repair activities. Both are genuine forms of labour. Because they have been unreasonably swelled in many of the institutions, it has apparently been forgotten that repair and maintenance, not to mention domestic employment, constitute genuine work provided they are kept within reasonable limits.

(g) Equal pay is secondary, in importance, to the prisoner's rehabilitation. To this it has been replied that there is no thought of giving preference to remuneration over rehabilitation: what is sought is rather to expedite the prisoner's rehabilitation through adequate remuneration. In any case, it seems difficult to maintain that the absence of remuneration or the provision of it in very small degree are more conducive to the prisoner's rehabilitation than adequate and fair remuneration.

(h) Other objections raised against the principle of equal pay, under the heading of "practical difficulties", have been that it would tend to complicate the prison accounting procedures, necessitate more staff, make the classification of prisoners and prison labour more difficult, call for more co-ordination and liaison with outside government offices, etc. But it would seem that none of these objections, which are similar to those advanced against integration, is of

substance. They all refer to an operating procedure the difficulties of which, as has been frequently pointed out, are exaggerated, and seem rather to betray a preference for the status quo, on purely administrative grounds.

(i) Lastly, it has been objected that, if prison labour constitutes part of a treatment, there is no need for equal pay. It has even been said that prison labour can be assimilated to therapy, which is not remunerated; or that remuneration could be paid on a "group" basis and divided between the members of each group on more or less "therapeutic" lines. This view, already examined, does not seem to reflect majority opinion, which does not regard prison labour generally speaking as a form of therapy, despite the therapeutic value that it may have in particular cases. The same majority opinion is to the effect that prison labour should be regarded as an integral part of the prisoner's daily life, one reason being that most prisoners do not need medico-psychological treatment. At the same time it is conceded that such treatment should be provided for individual prisoners who require it.

17. The foregoing statement of objections and counter-arguments is not put forward in a polemical spirit, nor is it an all-embracing one. The aim has been to select, wherever possible, the arguments used at the Congresses of The Hague in 1950 and Geneva in 1955, and more especially in the 1954 and 1958 discussions of the European Consultative Group. The 1958 discussions were of a particularly detailed nature and clearly showed that, despite the objections raised, the majority favoured the economic integration and adequate remuneration of prison labour.

CHAPTER V

ANALYSIS AND PROPOSALS

18. In analysing the present position and in formulating proposals, account has been taken of the general principles derived from the Rules and Recommendations and of the other relevant provisions mentioned in Chapter I with regard to prison labour, as well as of resolution 155 (VII) of the Economic and Social Council, also mentioned above, which defines the international directing and co-ordinating functions of the United Nations in the prevention of crime and the treatment of offenders. In any case, it will be for the Congress to express its views on the analysis and the proposals, as well as on the other parts of the present report.

A. ANALYSIS

(a) General

19. There has undoubtedly been a general improvement in the matter of prison labour in certain countries, advanced and less developed alike. But apparently in others, despite some progress, the position leaves much to be desired. In a few, no improvements seem to have been made. These variations apart, however, a general desire to improve the prisoner's status exists. Its realization is sometimes hindered by economic or administrative difficulties or both, and sometimes by lack of a sympathetic attitude on the part of the public and the employers' and workers' associations. These quarters seem in certain countries, however, more willing to offer effective co-operation. Yet such co-operation, though an encouraging sign, is usually based on a narrow view of prison labour and the prisoner, as standing outside the rest of society: the prisoner's status, it is conceded, must be improved, but this must not result in the integration of prison labour with free labour, or in recognition of the prisoner's right to adequate remuneration.

20. The general position seems even less satisfactory if regard be had to the situation in local gaols; in these, large numbers of prisoners are serving sentences which, although short so far as the period of imprisonment is concerned, constitute the majority of the sentences passed in any one country. In these local gaols, prison labour is very small in volume and often does not exist at all. Although certain efforts have been made to remedy this situation (which affects

convicted and untried prisoners alike), e.g. in the State of Wisconsin, United States of America, under the Huber Act and in the State of Porto Alegre, Brazil, there seems to be no question but that the position is usually worse in local gaols than in the larger prisons. It can become a serious one, given the quite considerable number of countries in which a prisoner has to wait many months for trial. Often the untried prisoners are not separated from convicted prisoners and neither group has work of any kind. Recourse to the argument that untried prisoners cannot be required to work seems to reflect, once more, the artificial theory that prison work is a duty or a form of treatment. Obviously, on the basis of either of these arguments, an untried prisoner can remain for long months without any work to do, and suffer all the disadvantages and dangers which such a state of things involves. If, on the other hand, work were regarded as a normal activity both for untried and for convicted prisoners, it would be much easier, in a number of countries, to deal with the situation. Prison labour could be shared out rationally, and all untried prisoners would be required to work - this would serve as a measure for the prevention of crime, since such work would militate against the untried prisoner's social disintegration. In support of this view it could be argued that it is the duty of the State or society to prevent crime, and that this preventive duty should outweigh the purely formal objection that an untried prisoner ought not to be given work unless or until he is convicted. Another point to be considered is the desirability of reducing, so far as possible, the period (often, in many countries, too long) during which a prisoner is held for trial. To this end, more effective use should be made of the principle in criminal procedure whereby the detention of untried persons is to be an exceptional measure, not a general practice. Finally, another question closely associated with prison labour is that of the ex-prisoner's employment. The best programme of prison labour can fail if, when the prisoner is released, he is not helped to find work. This matter will be considered in part by the Congress when it discusses the agenda item entitled "Treatment prior to release and after-care, particularly aid to prisoners' dependents".

21. Except in a small number of isolated cases, some of them experimental, it is difficult to sustain the argument that the present level of remuneration is equitable (Rule 7 and Recommendation VII). A comparative study of the position could provide sufficient evidence to show that certain economically and industrially very advanced countries are much further away from equitable remuneration than some of the less developed ones. For instance it can be seen, from a survey of the

countries mentioned in this report, that the "remuneration" paid in the advanced countries is often less than a tenth or a twentieth of normal remuneration, whereas in some of the economically less developed countries the "remuneration" may represent as much as 75 per cent of that paid to free labour.^{1/} Although such a comparison cannot give a complete picture of the general status of the prisoner in each country mentioned, it does suggest that the equitable "remuneration" of prisoners is not necessarily related to a more advanced level of economic and industrial development. This conclusion would seem to be supported by the fact that, in a number of institutions in highly developed countries, one half or more of the prisoners either receive no daily remuneration at all or receive it at a level which does not exceed 30 cents of national currency. This position appears similar to that existing in a number of under-developed countries. A like conclusion is suggested in regard to the continuity and quality of prison labour. An analysis of the situation in some of the countries considered in this report indicates that the fact of a country's being highly organized economically and administratively does not necessarily mean that its prisoners are provided with work for the entire year. The same difficulty arises - generally to a greater extent - in the less developed countries. With regard to the nature of the work, the contrasts are sometimes more pronounced in highly developed than in less developed countries. Thus it may be shown, in the case of a highly industrialized country, that the work provided for its prisoners consists in the sewing of mail-bags, the making of brooms, brushes, mats and envelopes, and the performance of other unskilled tasks; and that this work, moreover, must sometimes be done by hand, because if available machinery were used the tasks would be finished too soon and the periods of idleness would last longer. A similar situation exists in the less developed countries, where the labour is usually manual and similar, or comparable, in nature. All that can be said in favour of these latter countries in this respect is that this unpretentious form of manual labour does to some extent reflect their more limited industrial development. Once more, the conclusion is that a country's economic and industrial capacity often has no bearing on the amount, continuity and nature of its prison labour. In short, if it is recalled that, apart from persistent offenders and professional criminals, many prisoners (particularly in the industrially developed countries) have previously been

^{1/} In some of the institutions of economically advanced countries, prisoners' "remuneration" is less than 0.05 of normal remuneration.

more or less skilled workers, it seems safe to conclude that much of the work provided for them cannot be regarded as best calculated to promote their rehabilitation. If to the circumstance of often irregular and coarse work is added that of poor "remuneration", it can be questioned whether the argument that such remuneration provides an incentive has any foundation. For those who maintain that it does, the word "incentive" is apparently synonymous with motivation. But although the two terms have something in common, they represent two distinct ideas. If prisoners work under such conditions, it is not because they are genuinely attracted by them, but because they are motivated by a desire to make the prison system more tolerable - a desire to avoid, so far as possible, the demoralizing effects of idleness.

22. Another question which should be considered is the frequent reference to "vocational training" in justification of the present system of prison labour and the absence of adequate remuneration. Simple forms of work are often described as "vocational training". It would help to prevent this confusion of aims if it were clearly understood that: (a) not all prisoners need vocational training; (b) such training does not preclude the payment of remuneration, however modest, to trainees; (c) it is difficult to provide vocational training, even in the form of so-called "intensive" courses, for prisoners serving short sentences; and (d) the vocational training of prisoners serving long terms cannot continue indefinitely.

23. Another factor which, it seems, seriously complicates the solution of this problem is the continued classification of penal establishments as maximum, medium and minimum security institutions, instead of, in accordance with the United Nations principles mentioned above, as closed, semi-open and open institutions. The first-named classification assumes that the three main penal functions are custody, supervision and security. In relation to these, therefore, prison labour and similar forms of activity are regarded as secondary. Generally speaking, it might be said that in maximum-security institutions it is more difficult to organize systems of prison labour. An examination of some of these institutions would suffice to show that such systems are not always present in them. Modern penology is based on having more semi-open and open institutions and not on increasing the number of closed ones, particularly where the latter can accommodate more than 500 prisoners. If, as has repeatedly been argued, over 30 per cent of convicted prisoners can be sent immediately to open institutions, a like number to semi-open institutions and rather less than 30 per cent to closed institutions - which does

not necessarily mean their permanent assignment to one type of institution or another - it will readily be appreciated that the classification of institutions and prisoners has an important bearing on the organization of prison labour in particular and on the prisoner's rehabilitation in general.^{2/} Unfortunately, in highly developed and under-developed countries alike, there continue to be built huge "closed" prisons which cannot help to solve the problem of prison labour on the basis of the Rules and Recommendations adopted by the United Nations. In an attempt to justify the failure to set up open institutions and the unsatisfactory position with regard to prison labour, it has recently been argued that the probation system has in practice made open institutions unnecessary - a statement which appears to confuse two entirely different issues. All this points to the conclusion that an adequate classification of prisoners and institutions is one of the prerequisites of the problem's solution.

24. Finally, it should be asked whether the continued existence of large closed or maximum-security prisons, the organization of prison labour for the benefit and use of the Government or the State ("State use" system), the retention of minimum levels of "remuneration" as an incentive or reward, and the conception of prison labour as something distinct from other forms of labour, are not simply survivals of bygone penal concepts and out-dated notions of the State's penal function. The Congress should consider how far these considerations are valid.

(b) Integration

25. Although closely interrelated, integration and remuneration are two different things. For instance, the economic integration of prison labour with the national economy can be achieved without any remuneration, or with only a nominal remuneration, being paid. This type of purely economic integration is in fact that which is coming into being in several of the less developed countries, whose prisons have, under national industrialization plans, been converted into factories. In certain cases this "economic conversion" of the prisons is being undertaken for the benefit of the State, which uses their cheap labour in order to expedite the general process of industrialization, or purely and simply to obtain economic advantages. The explanation sometimes given for this type of conversion is that only when the State obtains an economic advantage is it practicable for it to improve the prisoner's condition, and that prisoners should

^{2/} A similar view is expressed in the Report of the Federal Bureau of Prisons, United States Department of Justice, 1952, page 2.

not be an economic burden on the State Treasury. This kind of attitude seems incompatible with the United Nations Rules and Recommendations. Moreover it is noteworthy that, despite the clear economic advantage to the State, the level of "remuneration" which prisoners continue to receive in some of these countries is of hardly any financial value. A similar situation exists in countries where large numbers of prisoners in mobile labour camps are used for the construction of public works in various areas. Although this practice has occasionally led to some general improvement in the prisoner's status, it could hardly be argued that camps of this kind are examples of the open institutions defined and recommended in the United Nations Recommendations. What appears to be most in conflict with the Recommendations and Rules is the system of hiring out groups of prisoners to individual employers as agricultural etc. labourers. One recent suggestion is to the effect that a factory should first be built and a penal institution then developed around it; it is not clear how far such a reversal of the normal procedure is in conformity with the United Nations Rules and Recommendations.

26. It follows that the term "economic integration" does not imply the integration of prison labour with the national, regional or local economy "for purely economic reasons". If it did, it would inevitably lead to the use of the prisoner as a source of cheap labour.

27. Given the misleading interpretations of the term "economic integration" which are possible, it would be better to speak of the "integration of prison labour with labour in general". Each is a form of labour, and their integration would mean that, so far as possible, prison labour should be organized and remunerated in the same way as free labour. It is integration in this form, rather than integration in a purely economic sense, that seems to be what is really intended in the Rules and Recommendations when they stipulate that the measures of security and protection which apply to free labour should also apply to prison labour. Integration in this form would seem to require remuneration based on equal pay for equal work. If this principle is to be successfully applied, it would be desirable that new methods of organizing prison labour, different from those now in use, should be adopted. They would include the direct participation, under proper supervision, of outside industry in prison labour and, whenever possible, the organization by prisoners themselves of labour co-operatives under the Administration's guidance and supervision. The integration of prison labour with free labour is not, as has been alleged, a vague and dangerous idea involving

the intervention of workers' or employers' organizations in prison affairs. Integration based on the Rules and Recommendations would be social, and not "union" or political, in character. The special status of the prisoner under the law rules out any recourse by him to the trade unions, and any organization, by such unions, of prison labour. These limitations do not however prevent (a) the social-economic integration of prison labour with free labour, or (b) practical and continuing co-operation between employers' and workers' organizations on the one hand and Prison Administrations on the other for the purpose of facilitating integration in this form.

(c) Remuneration

28. The remuneration of prison labour according to the principle of equal pay for equal work seems possible if such labour is integrated with the national labour system. So long as prison labour is something separate, it will be organized in accordance with a particular system and remunerated as part of the prison budget. In no case will what is called "remuneration" be anything more than a reward or recompense, the economic, social and psychological value of which can hardly be regarded as an incentive.

29. When studying the deductions which should be made from a remuneration that is at least equitable, it seems appropriate to start from the following two considerations: (a) the State's role in penal activity, as a public function, and (b) the special legal status of the prisoner resulting from his sentence.

Consideration (a) prevents the penal function from being regarded as an activity which must be financially self-supporting or bring profit to the State.

Consideration (b) means that the fact of the prisoner receiving equal remuneration for equal work does not make him a free worker, with all the latter's rights and obligations. Such remuneration would merely imply that the work itself received the social and economic recognition due to it.

30. It could therefore be said that the remuneration should be at least such as to enable the prisoner to use it for his own purposes, to help in the support of his family, and to set part of it aside as savings for his use upon release. The accumulation of this latter sum might not be thought necessary if the prisoner's family had received continuous financial help from him during the period of his sentence. It would seem more justifiable in the case of a prisoner having no family or having one which, for various reasons, is entitled either to no help or only to partial help, from him. The suggestion that the prisoner should

contribute to the cost of medical and psychiatric treatment received by him in prison seems hard to support. The State is the principal party concerned in providing such treatment. If a prisoner has been sentenced and needs special treatment for his social rehabilitation, it seems reasonable to conclude that such treatment should be provided as part of the penal function of the State. The same would appear to apply to the view that a percentage ought to be deducted from remuneration as a contribution towards the staff and maintenance costs of penal institutions and the cost of the prisoner's feeding and clothing. There are sufficient grounds for maintaining that all such costs are an essential part of the State's penal function and are not chargeable to a prisoner, even when his earnings are equal to those of a free worker. It should once again be noted that such earnings do not give to the prisoner a status equivalent to that of a free man. In view, therefore, of the difference in status, it seems reasonable to assume that the costs in question should be charged to the State and not, even on a reduced scale, to the prisoner. With regard to the payment of indemnities to the victim, this question would appear to arise only if remuneration according to the principle of equality is put into effect. So long as this is not the case, discussion of the point seems rather academic, despite the legal aspects. In this connexion it might be asked whether the fact that a person has been the victim of a crime does not imply, in a number of cases, a certain responsibility on the part of the State and of society, which have apparently been unable to prevent certain crimes or to eliminate the conditions encouraging, or leading to, crime. Whatever view is held, it might be said that the "individualist" theory of civil responsibility with regard to crime should be revised. In perhaps more cases than are suspected, the victim may have been the cause of the crime. In such cases it could be asked whether penal responsibility should necessarily and always imply civil responsibility. In the light of these and other considerations it seems reasonable to conclude that civil responsibility should be effectively apportioned by means other than a mere deduction from the so-called remuneration of the prisoner.

B. PROPOSALS

31. The proposals put forward here are based in the main on (a) the directives and principles of the Rules and Recommendations of the United Nations, and (b) the existing situation with regard to the organization and remuneration of prison labour, which, despite certain improvements and an evident desire for progress,

can hardly be considered satisfactory. This is the situation which prevents the speedy integration and remuneration of prison labour. A further element to be taken into account is the difference between countries which are economically and industrially developed and those which are less so. This difference has two aspects. First, the less developed countries may well, in practice, encounter fewer difficulties when reorganizing prison labour, for they will be able to do this with greater co-operation from private industry and workers' organizations. The less developed or the new countries will probably have fewer established interests to overcome in order to organize prison labour as part of labour as a whole. While the highly developed countries will, for various reasons, encounter serious obstacles in the administrative, union, economic and even political fields which will hamper speedy integration, the less developed countries, provided they avoid the exploitation of prisoners, can organize prison labour more freely, without having to copy the technical or administrative practices of other countries. These greater opportunities must however be used with care. Secondly, it might happen that prison labour was used in a less developed country as cheap labour for the country's general industrialization. Such a danger cannot be discounted. As previously mentioned, in certain countries some prisons have been practically converted into factories for the sole profit of the State. This danger is not so substantial in the highly industrialized countries where economic and industrial production is not dependent on cheap labour.

(a) Integration

32. The following proposals concerning the integration of prison labour are accordingly submitted for consideration by the Congress:

(a) The integration of prison labour with labour as a whole, rather than its economic integration, is to be recommended. Integration of the first-named type, and not that achieved by transforming penal institutions into centres of production for the benefit of the State and of private individuals, is what is required and justified by the United Nations Rules and Recommendations in the matter;

(b) This type of integration entails the extension to prison labour of the protective, security and economic advantages available to free labour;

(c) For the attainment of such integration, prison labour should be organized on the basis of a variety of systems, and with the direct co-operation of employers' and workers' organizations. Co-operation by these organizations

does not mean that prison labour, prisoners and the Prison Administration are to be subject to their jurisdiction. Whatever system of organization is adopted, the Prison Administration will always fulfil its essential function as custodian and guardian of the prisoner. In no case should the prisoner be subject to the authority or jurisdiction of private individuals or of other public or private institutions;

(d) The type and organization of prison labour should be based on local, regional and national needs, and the planning of free labour for the purposes of these needs should allow for the possible contribution of prison labour. This planning and integration will avoid the problem of competition, at present raised because of the tendency to regard prison labour as something separate. Consequently, and within the limits imposed by his legal status, work done by a prisoner should be considered as part of labour in general. This does not imply that the prisoner should come within the jurisdiction of workers' organizations;

(e) The integration of prison labour with free labour does not mean that the former will necessarily be of an industrial type. It may be used in agriculture, in the smaller industries, or in handicrafts, depending on local, regional or national needs;

(f) Integration will be considerably assisted by the following measures:

- (i) a suitable preliminary classification of prisoners;
- (ii) the increasing use of open and semi-open institutions, and the reduction of the number of closed prisons to the strictly essential minimum;
- (iii) the introduction, in these institutions, of industrial and non-industrial work of a private nature;
- (iv) the granting of the necessary facilities for the organization of workers' co-operatives for prisoners;
- (v) an increase in the number of prisoners allowed to work outside the institution on their own account, for private industry or for the State;

(g) Vocational training should be provided for the prisoner only when necessary, and should not be used as a substitute for prison labour. It should, among other things, help the prisoner to return to surroundings in which such training can be put to practical use;

(h) Domestic, repair and maintenance work, as well as work in offices and for the various prison auxiliary services, should be reduced to the minimum required. Only the prisoners strictly needed to carry out such work should be assigned to it. These tasks can, if necessary, be performed in rotation by all prisoners;

(i) The integration of prison labour with free labour will be considerably assisted by the reduction or, if possible, the abolition of penalties involving short periods of loss of liberty;

(j) It will also be helped by the adequate organization of after-care, particularly in connexion with the finding of employment for prisoners after their release.

(b) Remuneration

33. Remuneration on the principle of equal pay for equal work is the logical social and economic consequence of the integration of prison labour with free labour. On the other hand, this principle, like that of integration, cannot be applied fully and immediately in every country. In the less developed countries it may be implemented more swiftly - for the reasons given in connexion with integration - than in the economically more advanced countries. As an intermediate stage for both types of country, it is suggested that, before the principle of equal remuneration is applied, the principle of equitable remuneration should be fully implemented. This suggestion seems the most practical one, so long as it is regarded as a step towards equal remuneration and there is a measure of agreement on what constitutes equitable remuneration. It seems reasonable to conclude that, except in a few cases, existing "remuneration" cannot be considered equitable. Whatever the quality and quantity of prison labour output, it would seem difficult to hold that the "remuneration", which is generally less than a tenth of outside remuneration, can be an incentive or reflect the principle of equity. It may be added that in many countries "remuneration" does not exist or, where it does, that less than 50 per cent of the prisoners receive it.

34. In view of the foregoing and related considerations, the following proposals are submitted for examination by the Congress:

(a) Remuneration on the principle of equal pay for equal work is required and justified by the integration of prison labour with free labour, and is in accordance with the directives and principles of the United Nations Rules and Recommendations in the matter. Governments should therefore be invited

to take the necessary steps to put that principle into practice. For this purpose, and to start with, it would be desirable to apply the principle to selected groups of prisoners;

(b) Pending general application of the principle of equal pay for equal work, levels of remuneration should be established which are really equitable, represent a genuine improvement upon present levels, and will facilitate the prisoner's rehabilitation. It is difficult to define what should be understood by "equitable" remuneration. Various formulae can be recommended. The simplest and most practical might consist in the prescription of a minimum, and in a suggestion that any remuneration lower than 33 per cent of the remuneration for equal work outside could not be regarded as equitable;

(c) Such a minimum should be applied to all types of prison labour, including domestic, maintenance, and repair work as well as work in offices and other auxiliary services in a penal institution, and whatever the length of the effective working day;

(d) From such remuneration, only two deductions appear advisable: one for the benefit of the prisoner, and a second, equivalent one as assistance towards the maintenance of his family. If there should be no family, the second-named amount will also go to the benefit of the prisoner. In the latter case, the accumulation of savings for the prisoner's use upon his release would be obligatory. So long as the remuneration is merely "equitable", other deductions do not appear to be justified. If remuneration is based on the principle of equality, consideration can be given to the possibility, in certain cases, of deducting part of the earnings for payment as an indemnity to the victim of the crime. A deduction in respect of administrative costs and the cost of clothing, maintaining etc. the prisoner seems hard to justify, given the State's penal function. It seems reasonable to conclude that the exercise of that function includes payment of the costs involved.

35. The proposals outlined imply a gradual process of integrating prison labour with free labour and of applying the principle of equal remuneration. They would be implemented by degrees, though as speedily as possible, for all prisoners except those permanently or temporarily incapacitated from working. They would be applicable to all penal institutions, including local gaols, and to every type of prison labour, whatever its length or character.

ANNEX

List of United Nations publications and documents mentioned in the text.

1. Prison Labour. Sales No.: 1955.IV.7.
2. First United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Report prepared by the Secretariat, Sales No.: 1956.IV.4.
This report contains the Rules and Recommendations approved by the Economic and Social Council in 1957.
3. European Consultative Group on the Prevention of Crime and the Treatment of Offenders, 1954. Report, summary records and working papers
ST/SOA/SD/EUR/4.
4. European Consultative Group on the Prevention of Crime and the Treatment of Offenders, 1958. Report, summary records and annexes, ST/SOA/SD/EUR/6.
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