are detached for judicial services, they will cease to perform administrative functions. Moreover, the administering authority has begun appointing professional judges in the courts. As to the requirement that magistrates shall be French citizen, the administering authority has not contemplated any plan for reorganising the method of appointing the judges.

15. As to the division of powers the Mission notes that the separation of powers is the principle of the judicial organisation of the territory and if any administrative office performs judicial functions he ceases to perform his administrative functions as long as he is detached for judicial services. Moreover, the Court of Lome alone has about ten professional judges at the moment and that some assistant administrators were only temporarily appointed Magistrates for a few months owing to lack of staff. These exceptional measures had already come to an end in the case of the courts of Atakpame and Sokode where a professional judge had now taken over. It was expected that at Anecho a magistrate a professional judge, would be appointed soon and that on his arrival all the judicial appointments in the territory would be held exclusively by professionals.

As to the requirement that magistrates be French citizens, the Mission notes that according to legislation in force only French citizen can be appointed as professional judges. This conditions of citizenship is not required from lawyer and barrister.

The Mission is of the opinion that the Administering Authority should take the necessary measures to remove obstacles which would prevent Togolanders from becoming judges or magistrates... and is of the opinion that it should be necessary in the Territory to be a French citizen in order to be a judge or magistrate. (U.N.V.M., T.C.O.R. 13th Session 1954 Supp. No.3 page 11).
Historical Survey:

The territory was brought under German influence through the efforts of Dr. Karl Peters who travelled through the interior of the territory and within a period of six weeks was successful in making twelve treaties with the chiefs. As a result of these treaties, these chiefdoms were declared to be the German Territory.

On his return to Berlin in 1885, the lands that were acquired by him were placed under the hegemony of the German protection. Zanzibar claimed a strip which stretches ten miles along the coast, but in 1886, the right of collecting duties on the coast was taken by Germany. In 1890, the whole coastal strip passed into their hands as a result of a payment of £200,000 made by the German Government to the Sultan of Zanzibar.

The first world war broke out and the British and German forces were involved in armed clash. The serious offensive was not launched by the combined British and Belgian forces until the beginning of 1916. By November 1917, the German forces were completely driven across the Ruvuma River into Protugese East Africa and the occupation of the whole of the territory was not completed.

The Treaty of Peace with Germany was signed at Versailles on 28th June 1919. By the terms of the Treaty, Germany had to renounce all her overseas possessions including her East African colony in favour of the Principal Allied and Associated Powers. An agreement was
reached between the Allied and Associated power wherein it was said that His Britannic Majesty should exercise a mandate to administer this former German colony except for the areas of Ruanda - Urundi for which the mandate was conferred upon the Belgian Government.

In 1920, the Tanganyika order-in-council was passed establishing the office of Governor and commander-in-chief of the territory. The mandate system continued until the establishment of the Trusteeship system under the United Nations Charter.

Area, Topography, and Climate:

The territory is situated between the great lakes of central Africa and the Indian ocean. It lies to the south of the Equator and it has a coastal line which stretches 500 miles from the Umba River in the North to the Ruruma River in the south. The total area is 362,688 square miles.

The massive Kilimanjaro with a permanent ice-cap which rises to 19,565 ft. above sea-level and the Lake Tanganyika are situated within the territory. The territory may be divided into three climatic zones - first, the tropical climate prevails in the warm and coast region with the immediately adjoining hinterland, secondly, there is the hot and dry zone of central plateau with an altitude varying between 2,000 and 4,000 ft.
Native population: In 1948, a complete census was undertaken. During 1952, a partial census was carried out which covered the non-Africans throughout the territory and all races in the townships and certain other areas. The Africans numbered 7,965,000, the Europeans are 20,300, other non-Africans mainly Asians are 84,000.

Hundreds of tribes are found in the territory. The largest tribe consisting 12% of the population is the Sukuma tribe. Other large tribes in numerical order are the Nijamwezi Ha, Makonde, Gogo, Haya and Chagga. These tribes represent 35% of the population. The six smaller tribes next in order comprise about 50% of the population. The ethnic composition of the tribes differ considerably and this difference accounts for the fact that they are descended from the diverse racial stocks.

There are many linguistic groups within the territory. The majority of the people are Bantu speaking and even within this group, variations prevail to a considerable extent. There are some languages which are Hamitic and Nilotic in origin. Swahili is a language of the coastal people. And this language is said to have its origin from the Bantu. This language has been developed with many words of Arabic, Persian, Hindustani and Portuguese. This language is understood throughout the territory. The majority of the people. The people who live on the coast and in a number of the older inland towns have embraced Mohammedanism as their religion. Over fifty years the missionary activities have steadily grown and as a result many districts are now largely Christianised.
There exists an inter-territorial organisation involving the British colonies of Kenya and Uganda and trust territory of Tanganyika. This inter-territorial organisation is known as the East African Inter-territorial organisation. This arrangement was provided with a constitutional basis by the East Africa (High commission) order-in-council 1947. Under this arrangement it has been provided that a number of services of the territory shall be administered jointly with those of the contiguous British territories of Kenya and Uganda. There is a High commission consisting of the governors of Kenya, Uganda and Tanganyika; all the normal powers of government with respect to the common services are vested in the High commission. The principal services concerned are defence, industrial planning, railways and harbour, air transport, the collection of customs and income taxes (but not the determination of the rate of tax); post telegraphs and radio communications, research.

Commenting on the inter-territorial arrangement, Mr. Soldatov said, "The High commission consisting of the government of Kenya, Tanganyika and Uganda is a body corporate and has normal power of a territorial government in respect of the common services which it administers. A government running common services cannot be other than political in character; consequently the political nature of the Union was more than obvious."

Mr. Mathieson (U.K.) thought that some difficulty might perhaps reside in the interpretation of the word government. The words quoted by the U.S.S.R. representative simply made that the High commissioner had administrative powers by virtue of legislation which had been passed by the separate territorial legislature, including that of Tanganyika. Those powers were powers which any governing body must have in order to be able to control the services and make them accountable to it. (T.C.O.R. 9th sess., 353rd meeting, 1951, p. 63)
meteorology and statistics. A central legislative assembly is created which is composed of 24 members and out of these members Tanganyika has been represented by five of its members. The central legislative assembly is vested with powers to legislate over matters in respect to common services. Such legislation is subject to the assent of the High commission.

This inter territorial arrangement was reviewed by the Trusteeship council at its third session. It considered then that it would be premature to form a definite opinion regarding the East African inter territorial organisation. It thought that the Administering Authority would consult the Trusteeship council before taking any extension of modification which might affect the status of Tanganyika.

During its seventh session, a Standing committee on Administrative Union was created which examined the working of the inter Territorial organisation. It gave particular attentions to the working of the central legislature and to the functions of the East African Industrial council especially in regard to granting licenses in order that the economic development of Tanganyika may not be hindered.

Mr. Soldatov (U.S.S.R.) commented on the representation of Tanganyika in the central legislative assembly. He said that Tanganyika had been allocated five of the twenty four seats in East African central legislative assembly and thus it was represented on a basis of equality to Uganda and Kenya. He asked what safeguard there were for preserving within that legislative assembly the special status of Tanganyika as trust territory.

Mr. Lamb said, "First there the assurance was given by administering authority that nothing being done or contemplated in the East African inter territorial organisation which would in any way affect the status and political autonomy of Tanganyika as trust territory. Secondly Tanganyika had its own representative in the East African central legislative assembly and it should be remembered that very little could be done by the East African inter territorial organisation as
The Trusteeship council on the recommendation of the standing committee at its eleventh session drew attention to the fact that the future economic interest might be fully safeguarded and the territory should be given a share to participate in the activities of the East African industrial council.

As a result of the inter-territorial organisation the railway services and the postal services of the territory have been amalgamated with those of Uganda and Kenya. With regard to the functioning of those two organisations, the second visiting mission to East Africa expressed the opinion that the amalgamation of the Tanganyika Tanganyika railways with the Kenya, and Uganda railways has resulted in substantial advantages. During the eleventh session, the Trusteeship council took note of this fact and expressed the hope that all steps to safeguard the economic interests of the territory should be taken by the administering authority.

As to the possible effects of the inter-territorial organisation on the economy of Tanganyika the second visiting mission drew attention to the fact that Tanganyika should retain its right to control the economy of the territory and to direct its future economic development while pursuing the aim of uniformity whenever this is in conformity as such without the approval of the local territorial assembly. (T.C.O.R. 353rd meeting 9th session, 1951, p. 61)

Mr. Tsarapk (U.S.S.R.) asked why the administering authority had decided that Tanganyika like Kenya and Uganda should be represented in the East African central legislative assembly by only five members. The fact that the trust territory was placed on the footing as the adjacent colonies reduced its status to the status of a colony.

Sir Alan Burns (U.K.) explained that the present arrangement ensured that the interest of Tanganyika in matters dealt with by the assembly were adequately represented; they in no way affected the territory's status as a trust territory. (T.C.O.R. 13th session, 508th meeting, 1954, p. 20.)
with Tanganyika's interest. In the opinion of the administering authority, the inter territorial organisation is purely administrative in nature and it will neither jeopardise economic interests of the territory nor attempt to make any political fusion of the territory with those of Uganda and Kenya.

Mr. Soldatov of U.S.S.R. blamed the administering authority for perpetuating a colonial system. He said "An example of these colonial policy is the creation of the so-called administrative union in the form of an East African inter-territorial organisation involving the economic and political and administrative union of the trust territory with the neighbouring U.K. protectorate of Uganda and Kenya colonies ........ High commission controls all important services thus administrative economic and political union between the territory and British colonies is a gross violation of the U.N. charter and the trusteeship system since it only hampers but also precludes the trusteeship future development of the territory towards self-government or independent entity. (T.C.O.R. 11th session, 428th meeting 1952, p. 8)"
The Governor:

The Governor and commander-in-chief is Her Majesty's Representative in Tanganyika. He is appointed by a commissioner under Her Majesty's sign Manual and Signet. The Order-in-council and instructions issued to the governor either under the Royal sign Manual and Signet or through a Secretary of State govern the relationship between the governor and the administering authority. He is responsible to the administering authority for the administration of the territory.

The governor is the supreme administrative head of the territory. In matters of administration he is assisted by an executive council consisting of 8 officials and 5 unofficial members. The governor delegates to them certain of his powers relating to various subjects under the supervision and direction of the members of the executive council. Both the official and non-official members are appointed by him.

The governor is vested with legislative powers. The relationship between him and the legislative council is governed by the Tanganyika (Legislative council) order-in-council 1926. It has been laid down that the governor in making laws for the administration of justice the raising of revenue and generally for the peace, order and good government of the territory he is required to seek the advice and sent of the Legislative council. Any bill passed, by the legislative council is presented to the governor for his sent. He may assent; dissent or rescue the bill for Her Majesty's pleasure. In making ordinances he is required to form to and observe all rules, regulations, and directions.
which are contained in instructions issued to him either under the Royal Sign Manual and Signet or through a secretary. It has been further provided that in making such ordinances he is required to respect existing native laws and customs except where they are not contrary to justice and morality.
The Executive Council:-

In administering the territory, the governor is assisted by an executive council which consists of 8 officials and five unofficial members. All the members are appointed by the governor; the official members are appointed by him under the provisions of the Royal instructions dated 31st August 1920, as amended from time to time. Of the five unofficial members represented in the executive council, one is an African. Sir John Lamb said, "The appointment of one African member to the Executive council is in itself a new departure. The possibility of increasing the number of African members on the Executive council will be constantly borne in mind. As the Mission so rightfully observed however, a high standard of education and judgment indeed of personal integrity is necessary for such membership and the possession of these attributes must continue to be regarded as the essential qualification for all members of the council of whatever race." The members of the executive council are also the members of the Legislative Council. The reasons for making the executive council a part of the legislative council were given by Mr. Grathan Bvelles who said, "the Executive council is the first nucleus of the cabinet system, its function is to advise the governor and it therefore only logical that its members should sit in the Legislative council when the legislation is exacted."

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The various departments of the govt. are grouped together and each group is placed under the direction, coordination and supervision of an official member of the council with direct responsibility to the council. These members are conferred with various statutory functions by territorial ordinances and in some matters there has been the delegation of power from the governor to these members.

The governor-in-council is vested with power to enact or approve subsidiary legislation. These powers are derived from the territorial ordinances. In making subsidiary legislation, he is advised by the members of the executive council. But such advice may be overruled by the governor. In commenting upon the relationship between the governor and the executive council, it has been said that since all appointments are made by the governor; the council becomes dominated by him. This view has been contradicted by the special representative who has pointed out that every decision of the executive government requiring legislation has to go to the legislative council for its final approval.

Mr. Menon said, since all the members of the executive council were appointed by the governor, the council became in effect an instrument of one man rule.

Mr. Grathen Belleus said, that was not a correct description. When a decision of the ex-govt. required legislation, as it always did, the matter then had to go to the legislature.

Mr. Menon said, that did not answer the question, because the executive decision too could be disallowed by the governor.

Mr. Grathen Belleus pointed out that cases had arisen when govt. policy had gone before the Leg. council in the form of draft legislation but had been dropped or allowed because of the views of the non-official members.

Mr. Menon observed that of the 13 members of the council, 12 were officials who represented the opinion of the govt. He could not see therefore what justification there was for their being overruled by the governor.

Mr. Grathen Belleus replied that official members sitting in ex-council gave their advice according to their conscience, animated by considerations for the further progress of the Territory not according to any directions from the administrator.
The Legislative Council:—

The Legislative Council of the territory is composed of the unofficial and official members. The officials number fifteen and they are all Europeans appointed by the governor. The unofficial members are fourteen in numbers of which three are Asians, 4 Africans and 7 Europeans. They are nominated by the governor for five years. The members represent not particular geographical area but the various communities and interests of the territory. The principle of elective representation is not introduced in the case of the members. The reason for this stated by the Mr. Lamb, the special representative for the territory of Tanganyika, who said, "while there might be no objection in principle to such an experiment it would give rise to considerable difficulties in practice. It was hardly possible to devise a procedure which would enable the scattered, largely illiterate population to express their views on such a representation. At present there was no framework to organise election."

The Constitutional development committee examined the structure and the composition of the Legislative council. It was in the opinion to expand the council in

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6. The principle of elective representation, to the Legislative council was accepted by the committee but no specific suggestions for its application were given. The committee considered that the reform of the Legislative council with elected representation should follow within three years of the inauguration of the new local government institutions (UNVM., T.C.O.R. 17th session, 1951, p. 5).

7. The main recommendations of the committee with respect to the Legislative council are that it should be considerably expanded in size, that the official majority should be maintained until experience has been gained in an enlarged council and that the basis for unofficial membership should
Bl'igana the retention of the official majority was favoured. The unofficial membership should be based in its view, on the principle of equal representation for the three races. But this principle of equality, it has been pointed out by the Soviet delegate, makes a racial discrimination in favour of the European population. If we look closely to it, we shall find that out of a population of 7,700,000 Africans will get seven seats, out of a population of 71,000 Asians, the Asians will secure seven seats and seven Europeans will represent 16,000 Europeans. Thus the principle of equal representation works to the disadvantage of the indigenous population and grants a favoured treatment to the Europeans. In the opinion of the administering authority, however, the equality principle is not based on the count of heads but is a recognition of the principle be an equal division of seats among three main races, the most suitable expression of the principle of partnership. The committee proposed that the membership of the council should be the Governor, twenty-one official members and twenty-one unofficial members seven Africans, seven Asians and seven Europeans.

In explanation of this proposal, the committee stated that it had found it impossible, on a basis of numbers, of financial interests or of political maturity, to make any assessment of the relative claims to representation by the three races and based its recommendation of equal representation on the need to obviate feelings of distrust and lack of confidence and to lay a sound foundation for future political development.

Mr. Soldatov (U.S.S.R.) mentioned the recommendations of the committee of constitutional development which said that the official majority should be retained and basis of unofficial membership should be an equal division of seats among the three main races - consisting 7 of the 21 unofficial - Africans, 7 Asians and 7 Europeans.

"With a view to making the Legislative council a really democratic body, it should be pointed that the seven Africans will represent about 7,700,000 indigenous population or one
of the partnership into legislature, the three different communities although of different sizes, will play their part due account being given to the contribution made by each community for the development of the territory as a whole. In other words, the administering authority feels that the parity principle will be helpful to bring the best out of each community into a partnership system. The visiting Mission representative for every 1,100,000 inhabitants. 7 Asians will represent 71,000 Asians 7 Europeans will represent 16,000 European. Obviously there is flagrant discrimination against the indigenous inhabitants in the allocation of seats.

Mr. Lamb (sp. rep.) said: "The proposal that there should be parity is an effort, as explained by the committee itself to introduce the principle of partnership into the legislature... It is not based on account of heads. There are three main races living, working. If we are going to build up the strength of Tanganyika the way we wish to see it developed we must bring the principle of partnership into real activity. To say that to have seven Africans is a racial discrimination because there happen to be seven million Africans in the Territory, is looking at this picture in a different way from which we look at it."

The contribution made by one community must be taken into account.

"The suggested parity is, in the view of the committee a wise first step in bringing into being the working of the principle of partnership between these main races inhabiting the Territory."

Mr. Soldatov (U.S.S.R.) contented, "The principle of partnership must have regard for the particular interests of each people and attempt to satisfy those interests and guarantees equality of rights. In the case we are considering there is nothing of that kind. It cannot therefore be claimed that the principle of partnership is granted there are no equal partners but sort of relationship which operates to the disadvantage of the indigenous population and to a certain extent of the Asians, and gives an entirely privilege situation to the Europeans."

Mr. John Lamb (sp. rep.) said, "I cannot of course agree with his views on this matter of partnership. He would base it entirely on account of heads irrespective of the contribution made to the advancement of the Territory by these heads. I have suggested that we should look at it from another point of view, namely that there are three communities admitted varying sizes and all have their part to play. If we are going to get the best out of them we must bring them into a partnership system (11th sess., 425th meeting, 1952, p. 13 - 14) (T.C.O.R)."
studying the proposal of the parity-principle that it might be helpful for the interim period, but as long term solution this principle would not be satisfactory one.

The maintenance of the official majority as recommended by the Constitutional Development committee seems to have a significant import. The visiting mission noted that the retention of the official majority for some years was favoured by all groups of the people; but what concerned them was what would happen to them in the event of replacing the official majority by the unofficial. No precise opinion was expressed by the visiting Mission on this matter, but it was its view that the establishment of an unofficial majority should await the time when the inhabitants have attained a higher degree of political maturity.

Mr. Gerig (U.S.) said that, "Equal representation represents a useful step as an interim measure although we agree with the Visiting Mission that this does not offer a satisfactory long term solution with regard to the future basis for election to the Legislative council, we agree with the Mission's view which also has the endorsement of the Administrative Authority that the solution of the problem lies in the establishment of a situation in which the political groups would be formed on the basis of social and economic issues rather than on racial lines." (TCO/R11/1943, 25-89, 25 June 1951, P.1)

The mission has given careful consideration to the proposals of the committee affecting the composition of the Legislative council. While the greater part of the public discussion on the report has dealt with the proposal for equal representation of the three main communities, the question of the maintenance of a majority of official members is also of great importance, and the two questions must be considered in relation to each other.

All sections of the population are in agreement that the present official majority should be maintained for the next few years, but naturally each community is concerned from its own point of view about what the situation will be when such a majority is no longer in existence. Clearly, the time and the method by which the official majority will be replaced by an unofficial one is a matter of the greatest importance and the administering Authority itself is aware of this. The mission has no specific recommendations to make on this matter, but its view is that such a major step should await the time when the political education, maturity
Normally, the council holds four meetings during each annual session. At the opening meeting of the session, the territorial budget is placed for discussion. A meeting may continue according to the volume of business which it has to transact and the meeting may vary from one day to ten days or more. The business is conducted in the English language but a member may speak in Swahali language with the permission of the President of the Council. A member may propose any resolution for debate. Such a proposal has to be brought forward to the notice of the governor at least 10 days

and experience of the African community have developed to a point more consonant with position of that community in the population as a whole. If an unofficial majority is to be instituted in accordance with this criterion, it is clear that it cannot be established in the immediate future. The precise timing will depend on the efforts of the administering Authority and of its officials to promote, in a sympathetic spirit, the political development of Africans and equally on the response of the Africans themselves to these efforts. The maintenance of an official majority presupposes, of course, a continued exercise of direct legislative control by the Administering Authority. The mission considers that the Administering Authority should continue to exercise that control in the interest of all communities until the legislative body can be established on a more representative basis. It is possible at present some of the representations made to the mission indicate that not all sections of the population appreciate fully that it is the Administering Authority itself, and not the more advanced section of the non-African population, which is the trustee of the Territory, this principle is made explicit in the Trusteeship Agreement.

If the official majority is to be maintained for any length of time, the question of the ratio of representation of the Legislative council in the immediate future ceases to have the same degree of urgency as it would have other wise.

The solution to be sought is one which offers the best prospects for maintaining harmonious relations between the various communities and for promoting the political advancement of the more backward of them while, at the same time, offering all communities an adequate opportunity to express their point of view. The officials with whom the question was discussed, both in Tanganyika and in London, were of the opinion that the parity principle would have such an effect and would lead to a situation in which political groups would be formed on the basis of social and economic issues
before the meeting of the council. Any motion relating to the affairs of the Territory of Tanganyika may be proposed by any member and if this motion is seconded by another member that motion must be debated and disposed of. A bill other than a government Bill may be introduced by any member but in order to introduce the bill he is required to apply to the council for leave to do so stating at the same time the main features of such a Bill.

Rather than on racial lines. In the hope that this objective may thereby be advanced and having regard to the unanimous approval of the parity scheme by the committee on constitutional development, the mission feels that the committee's proposal for equal representation of the three main races on the Legislative council represents a useful step as an interim measure. However, the mission does not consider that the principle of equal representation offers a satisfactory long-term solution. (UNWM., T.G.G.R. 11th session, 1951, p. 7).
The development of the local Govt. institutions, the administering authority has felt, as the essential step in the evolution of the political progress of the territory. The local Govt. institutions fall into two groups: the Rural local Govt. and the urban local Govt.

Rural local Govt.: In the rural areas, the function of the local Govt. are carried by the Native authorities who derive their legislative and executive powers from the provisions of the Native authority ordinance. The heads of the administration of the local units vary from areas to areas; in some areas, the administrative heads may be individual chiefs or councils, or federations of chiefs and in some places where there is no closely knit tribal organisation or there exists an intermixture of tribes, the council of headmen may be executive authority. The powers of the local Govt. authorities are granted by the Native authorities ordinance they may make orders and rules which shall be enforceable within their jurisdictions. In addition to these powers, they have some residual powers which are derived from established local law and custom. All local Govt. units have their own treasuries, the annual estimates of their revenue and expenditure are framed by them.

The management of local affairs has been left to the hands of the recognised native authorities as undetermined under the established indigenous constitutions. But a change from a traditional to a modern system of administration is already taking places. This change has been initiated.
initiated by the creation of district divisional and subordinate councils.

The lower tiers of the council are coincident with tribal divisions and those of the district councils coincide with the jurisdiction of the administration division. Tribal federations exist in those places where the areas of jurisdiction of the council are more extensive than administrative district. The Sukumaland Federation which covers fifty chief with a population of a million people is an instance of it.

The district councils have been organised in almost all the districts and there has followed the devolution of legislative and administrative powers from the native authorities to these councils. The structure of the council varies in its size and composition due to varying local conditions. The district councils are composed of all the chiefs or other executives of the area, subchief or headmen chosen from each division, one or more representatives elected from each division. Besides these, the district council includes a certain number of nominated or coopted members. These persons are selected for their personal qualifications or they represent special interest not otherwise adequately represented on the council. In some particular district the council may include some persons who are considered appropriate to local tribal structure. In its most simplest forms, the district council consists of all the chiefs or other executives, the popular representatives and coopted members either chosen for their personal qualifications or as representatives of special interests or communities.

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Next we come to the divisional council. This council in its highest form is organised in those places where a system of district councils are existing. One of its characteristic feature is that the elective principle is widely accepted here. So far the composition is concerned it includes the executive heads of the divisions, the sub-chief or headmen and a number of elected representatives. In most of the places, the elected representative has a majority in the council. The function of the council is advisory to the executive. It has mainly their functions, to control the local allocations from the native treasury, organise communal activities and to act as the electoral colleges for the district council. In those districts, where no elaborate frame work of district councils exists, their function is mainly advisory to the native tribal authorities who happen to be the local executives.

At the bottom of the council system there is the subordinate council. The composition of these councils varies due to local conditions. But in general it is composed of the executive of the area, village headmen and the elected representatives of the villagers. They have advisory and deliberative functions but the administering authority hopes that they will have firm structure.
Position of chiefs in local government:

As the traditional rulers of the people, the chiefs form the basis of the local govt. The whole system of the council works round them. The statutory authority of the chiefs has been recognised by the administration. The governor, by the publication of the notice in the gazette may announce that a native authority or authorities shall be constituted for any specified areas; the manner of determining the establishment of such authority may also be prescribed by him. The persons constituting native authority or being members of the council are considered lawful so long such person or persons are recognised by the governor. The governor is moreover vested with the power to declare that any person recognised as a native authority shall cease to be so recognised and on such declaration the person shall cease to be the native authority or member of a native authority as the case may be.

The chiefs are selected by the people. The method of appointment of sub-chiefs and headmen varies according to the local conditions. In many cases, the appointment is hereditary, in some, the appointment is made by the chiefs, and in number of places, the people select them in open meeting. The question of the appointment of sub-chiefs and headmen has some significance in so far as it is related to the constitution of divisional and district councils. In those places where they are appointed to their office by popular choice, their membership in the council does not go against the principles of popular representation but the same cannot be said when the appointment is made directly by the chief.
Relationship between Local and central government :-

There exists no dividing line between the functions of the local authorities and those of the central govt. But now-a-days attempts have been made to make a precise definition of the responsibilities of the local authorities. The provisions of the Native authority ordinance lay down the functions of rural local authorities. Under the terms of the ordinance, they are vested with the powers to make rules and orders for the general peace, good order and welfare of the people within their respective jurisdiction. The main source of the revenue is derived from a proportion of revenue from their territorial house and poll tax and it also consists of the revenue from their local rates, cesses, licences, court fees and fines. The local authorities are required to spend the revenue for the administrative development and welfare of the area within their jurisdiction. For these purposes the loans may be raised by them on such conditions as may be approved by the member for local govt.

Galiwanga (W.I.K.)

Mr. Grathen said that some time previously Native authorities had been considered as agents for the central govt. The new policies was that Native authorities and the new local govt. authorities would be completely independent of the central govt. but they would be carry out many functions which were at present carried out by the central govt. (T.C.O.R. 13th sess. 508th meeting 1954, p. 208).
The functions of urban local govt. are discharged by the municipal council of Dar-es-Salam and the township authorities of 32 gazetted townships.

The municipal council of Dar-es-Salam consists of twenty-four members. Of the twenty-four persons, there are representatives of the govt. interests and the rest provides for the racial representation in equal proportions. With the reorganisation of the African ward council in 1953, each ward sends a representative on the municipal council. Two Africans seats are filled by special interests. In each year a mayoral election takes place.

The municipal council is an autonomous body. It derives its revenue from the grants by the central govt. and it is also empowered to impose rates and raise loans.

Mr. Landau noted that importance is also attached to development of autonomous local bodies in urban areas which will also be on an inter-racial body. We are very pleased to see that an elective system for country councils and all other local bodies is to be introduced as early as possible. With reference to the Native authorities, my delegation has noted a very real attempt is being made to recognise them and to strengthen them by the establishment of Native councils at various levels.

11th sess. 428th meeting Wednesday, 25th June 1952, 9. 51.)
All township authorities have a constitution which is adapted to their particular needs. In most cases there is an unofficial majority in the township constitution. The membership is based on inter-racial basis and the Africans have secured equal representation with other races and sometimes they are a majority. Township authorities have powers to enforce rules dealing with a variety of matters affecting sanitation and other conditions within their respective jurisdictions. The majority of the township have their own budgets.
Suffrage:

No suffrage laws have yet been enacted. Election has been restricted in the field of rural local government. In most of the rural areas, the people are asked to select the chief of headmen. The election is made in open "baraza". The popular control over the chiefs is not uniform. In some places they are subject to popular election. But the introduction of the representative council is strengthening the popular control of the local executive. The majority of the people have not yet fully appreciated the principles of popular election; but the system is now firmly established in many areas.
In Tanganyika, there are three types of courts, the High court, the subordinate courts and the local courts.

The High court is the highest judicial organ of the territory. It has a chief Justice and five other judges all of whom are appointed by Letters Patent and Art 19 (2) of the Tanganyika order-in-council 1920 lays down the manner of appointing them. The removal of the Judges cannot be made without the approval of the secretary of state who is required as a general rule to refer the matter to Her Majesty in-Council. The High court has both civil and criminal jurisdictions which extend over all persons and over all matters in the territory. The workings and proceedings of the subordinate courts are supervised by the High court by a system of inspection carried out by the judges from time to time and the judgments of the subordinate courts are subject to review and revision by the High court. The court holds its sessions at regular intervals in all provinces of the territory. Appeals lie from subordinate courts to High court and from the High court to Her Majesty's courts of Appeal from Eastern Africa which was reconstituted in 1951 by virtue of the Eastern African court of Appeal Order-in-council 1950.

Mr. Tsarpskin asked, - whether the jurisdiction of the court of Appeal from Eastern Africa extended to Tanganyika as well as Kenya and Uganda.
In all districts there are subordinate courts and these courts are designated as the district court of the district. The magistrates who may be of the first, second or third class preside over the courts. They derive their criminal and civil jurisdictions from the subordinate courts ordinance and the criminal procedure code. Art 9 of the magistrates. They have independence and security of tenure of service. No administrative control there the instruction to them is exercised over their performance of the judicial services. The governor on the advice of the chief justice may invest the first class magistrates with powers of extended jurisdiction.

Mr. Grattan answered, - the court heard appeals from all East African territories and Western from Tanganyika as well.

Mr. Tsarpkin told, - the Tanganyika High court had been established under an order of 1920. Asked whether the institution of the Territorial court in 1946 had affected the state of that court in any way.

Mr. Grattan Bellamy replied, - that under the British system of justice, all courts were completely free of the ex-govt. Consequently, the transition from a mandate to Territorial court would not be reflected in the instrument which established the High court.

Mr. Tsarpkin asked, - whether the Administrative Authority intended to confer on the indigenous population the right to elect judges who were at present appointed by the Government.

Mr. Grattan replied, - that under the British system of justice, judicial appointment were never elective.
Local Courts:

Local courts are the indigenous tribunals which are established under the provisions of the Local courts ordinance 1951. Formerly, the indigenous tribunals were known as native courts.

The composition of the local courts varies in different parts of the territory. In its traditional form an appropriate native authority presides over the court and he is assisted by assessors. During recent time there has grown a tendency to separate judicial powers from the executive functions of the native authorities. In some places the magistrates are appointed specially for the purpose to preside over the local courts.

The local courts have civil and criminal jurisdiction in those cases where the parties involved are Africans resident and also in cases in which Arabs, Somalis, Gombrians, Balulis are parties and when such persons agree to the matter being taken before the local court.

Mr. Gratfen - In the local courts which dealt with African affairs the magistrates were Africans. In addition there were those Africans with magisterial powers on the same likes as those of somet the European officials.

Mr. Tarpkin - asked whether the intended to discontinue the procedure whereby the govt. on the recommendation of the chief justice of the High court, could invert any first class magistrate with powers of extended jurisdiction.

Mr. Gratfen - (sp. rep) - replied in the negotiations the powers in question were granted only to magistrates of which experience and in special circumstance, in order to assist the administration of justice. (T.C.O.R. 13th sesa 508th meeting, 1952, p. 206).
HISTORY:

The Somali coast came under the Muslim influence. The towns situated on the western sea board formed part of the Zenj "empire". Successive occupation of these lands, from 16th century. The Portuguese in the 16th century conquered the land, then in the 17th century it fell under the imams of the Muscat and in 1866 it passed into the hands of the Sultan Zanzibar. As a result of the treaties made with the Somali sultans in 1889 and by agreements with Great Britain Zanzibar and Ethiopia, the coast east of the British Somaliland came under the Italian dominion. In 1892, the Benadir parts were handed over to Italy for years as lease by the sultan of Zanzibar. The administration of the parts was first carried on by the Filonardi company and from 1898 by the Benadir company. On January 13, 1905 an agreement was concluded between the sultan of Zanzibar and Italy; as a result of which all sovereign rights of the sultan over the Benadir parts were ceded to Italy in return for a payment of lump sum of money. Since, the direct administration of the parts was taken over by the Italian government.

In 1895 Captain Vittorio Bolleg was the founder of the important place Lugh which was occupied by Italy. In 1897 an agreement was made to define the frontiers of British Somaliland and Italian Somaliland. By a conversation dated May 16, 1908, the Benadir coast secured a hinterland; the boundary remained undefined as a result of which rival claims were advanced both by Italy and Ethiopia. In the Treaty of London 1915, Italy felt that its territorial claims were not recognised. Further
negotiation started between Great Britain and Italy. A treaty was eventually made in 1925 and Italy got a inland including Kismay. The formal possession of the territory was taken by Italy on June 29, 1925.

In 1935, attack on Ethiopia was launched by the Marshal Graziant from the territory of Italian Somaliland. The Ogaden was taken from Ethiopia and the Italian Somaliland with the addition of the Ogaden because a government in Italian East Africa by an act of June 1, 1936.

During 1941 of the second world war, the invasion of the Italian Somaliland was made the British forces was short and successful. Kismay was occupied on February 15, Bronze fell on February 25. When Magedeio was captured, the resistance of the Italian forces came to a close. The administration was taken by the British occupied territories administration. By an agreement with Ethiopia on January 31, 1942 the territory was placed under British military control. Extension of the agreement on December 19, 1944 provided for continued British military occupation. British military administration remained in force from 1941 - April 1949 when Somalia passed under the control of the foreign office administration of African territories. On 1 April 1950, Italy took over the trusteeship. The trusteeship agreement for the territory was approved by the General Assembly of U.N. on 2 December 1950. A ten-year period of trusteeship agreement was fixed by U.N. That period begins from the date of approval of the trusteeship agreement by U.N.

The territory of the Italian Somaliland extends on the coast from Benadar Ziyada on the gulf of Aden intersected by 49° East eastward to cape Guardaful and thence southward to Nick's Head. In the north and east it is bounded by the Indian ocean and in the south and west it is bounded by Kenya Colony and by Ethiopia and British Somaliland.
The interior of the country presents in general the arid aspect. A rigorous climate prevails in most parts of the territory.

Population:

The estimated population is 1,248,199. The majority of them are Somalis. The non-indigenous population includes Arabs, Indians, Pakistanis and the Europeans.

Somalis are believed to have their origin from the Hamitic family. Tradition has it that they originated from southern Arabia. One group claimed that their progenitor was Sharif Ishah who came to this territory in the thirteenth century.

The language of the Somali is derived from the Gala having Arabic intermixture.
In the Art 2 of the Declaration of constitutional principles it has been laid down that the Administering authority shall take necessary steps to define the status of citizenship of the inhabitants of the territory and to provide them with diplomatic and consular protection when they will be outside the jurisdictions of the territory and that of the Administering authority. The administration has not yet defined the national status of the indigenous inhabitants in a formal sense. In 1951 a draft law was

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Mr. De Marchena (Dominican Republic): "I now turn to the question of the status of the inhabitants. Article 3 of law no. 1301 of the Italian Republic, which ratifies the Trusteeship Agreement, establishes a time limit of one year for the publication of the necessary provisions for the full implementation of the Agreement. Are we to conclude that the promulgation of the legislative provisions defining the status of the inhabitants will necessarily be postponed until November 1952? I should like to have a clear interpretation of article 3 on that point."(T.C.O.R. 11th sess., 471th meeting, 1952, p. 7).

Mr. Spinnelli (special representative for Somaliland): "Article 3 of that law gives the Government of Italy power, without the consent of Parliament, to enact all the laws which concern the relations between the Italian State and the trusteeship administration. Naturally, with this law, the Italian Government has all the power to fix any kind of regulation for Somaliland - always, of course, according to the provisions of the Trusteeship Agreement. We do not know yet what kind of laws the Italian Government is going to enact during this few year. May be an organic act of the Territory could also be enacted. But, at any rate, the administration feels that we cannot think of enacting an organic act in the Territory until the year has elapsed, because in that year we shall see what the Italian Government has decided about the judicial and constitutional laws of the Trust Territory"(T.C.O.R. 11th sess., 471st meeting, 1952, p. 7).

Mr. De Marchena (Dominican Republic): "I should like to make a brief comment on the answer given by special representative. The Trusteeship Council will undoubtedly
submitted to the permanent committee of the Trusteeship Council. The draft law contains the provision for the recognition of the nationality of persons born in the territory—a further provision is included regarding the acquisition of nationalities of other states by them.

Attribute great importance to the statement we have just heard, in as much as it is essential that we should have a precise interpretation of the provision of the law, which ratifies the Trusteeship Agreement, and in particular of article 3. We are quite satisfied by the interpretation just given by the special representative (T.C.O.R. 11th sess., 471st meeting, 1952, p. 7)

"I have a further question in connexion with the status of the inhabitants. I should like to know whether, in drafting the organic law defining the status of the inhabitants in accordance with Article 2 of the Declaration of constitutional principle annexed to the Trusteeship Agreement, the Administration will bear in mind the fundamental difference between nationality and citizenship. I understand that the Administration has already studied every aspect of the question of citizenship. We should like to know, however, whether it will take account of these two very different concepts. Anglo Saxon law recognizes only citizenship, but in countries which apply Roman law there is a very clear distinction between citizenship and nationality. I am wondering if the Administration will keep this difference in mind in the case of Somaliland." (T.C.O.R. 11th sess., 471st meeting, 1952, p. 7)

Mr. Spinelli (Special representative for Somaliland): "Yes in studying the broad question of a law of citizenship or nationality the Administration had in mind the point just made by representative of the Dominican Republic. We have not yet decided, however, whether we are going to propose to the Territorial and Advisory Councils a law on citizenship or a law on nationality, that will depend - and here I am merely expressing my opinion - on the views of the Territorial Council. As things, now stand, however, I believe that the law will be only on citizenship, and not on nationality. As I said, we have not yet reached a decision on this matter (T.C.O.R. 11th session, 471st meeting, 1952, p. 8).
For the present, however, the administration considers such persons as originally from the territory under Italian administration, who have not a foreign nationality and who were born in and reside in the territory or who have resided in the territory since 1940.
the sentences of the 'adis court in civil and criminal cases involving the indigenous inhabitants are brought before the administrator for appeal.

For administrative purposes, the territory is divided into 6 regional commissariats. These commissariats are administered by the Regional commissariats. The regional commissariats are again sub-divided into 27 residencies. The residencies are under the administration of the residents. Both the regional commissariats and the residents are appointed by the administrator.
Administrative and the Advisory Council. The Advisory Council has the responsibility of giving advice, but the responsibility for the decisions — in other words, the authority — rests with administrative which alone for that reason, maintains direct and official contact with the population.

Another consequence is that, in the relations with the administrative authority the Advisory Council can act as a body which means, first that none of its members has individual rights, and secondly that the member should be present where possible.

The Advisory council is not as may be supposed an executive organ which may act as the court of appeal for the actions of the administering authority.

2. Sir Alan Burns (U.K.) commenting on the relationship between Advisory Council and the Administrative said, "In the opinion of my delegation, the Advisory Council is not entitled to arrogate to itself any functions of powers in excess of these articles, and it would be a breach of the Trusteeship Agreement it it did so. From this it follows that the Advisory Council has no power to deal any official finalise way with petitions, although in its functions of riding and advising it may, at the request of the Administering Authority assist in adjusting such differences of problems as may have given rise to petitions. Now has the Advisory Council any particular position via via the General Assembly of the United Nations, although clearly state members of the General Assembly, raise in that body matters affecting their role in Somaliland. My delegation regards it as unfortunate that political circumstance in Italian Somaliland should have led to an assumption, referred to in the visiting Mission's report, on the part of the inhabitants of the
It keeps contact with the people with the sole purpose of ascertaining its problems in order to cooperate with the administering authority in solving them.

territory that Advisory Council can play an essential part in the Government of the territory and that it can function as a court of appeal against the section of the administration. The peculiar aptitude of the Somaliland people for political activity makes it inevitable that certain sections of the population will exploit to the full and to the detriment of the Administration. Any well-meaning actions by members of the Advisory Council which would tend to lend substance to that assumption. (11th sess., 430th meeting Monday, 16th June 1952, 10-30 A.M. p. 10).
Territorial Council:

At the end of 1950, by an ordinance, the Territorial Council was established. This Council is a central consultative and representative organ in which all the traditional groups are represented. This representation is based on the territorial basis.

The Council has 45 members of whom 33 members are Somali. The seats allotted to the tribal representatives number 21. The twenty-one members are chosen in the following manner. Each Residency Council selects five of its members to represent the population of the Residency in the Regional Assembly which meets in each of the Commissariats. The lists of candidates containing twice as many names as the number of seats to be filled are submitted by each regional assembly to the administration who chooses the members from the lists.

The six commissariats are given seats as follows: Benadir sends 4 members, Lower Ueiba 2 members, Upper Ciuba 5 members, Lower Ciuba 2 members, Mudugh is 5 members and Midjestein 3 members. The representation seeks a compromise between the principle of giving tribal seats by Residency and that of allotting seats on a territorial basis in proportion to the size of ethnic groups. It gives seats to 21 of the 27 residences and also provides a distribution of seats in proportion to the numerical importance of the various ethnic groups.

To take it for example, the Darot, Hawiya and Sab Groups are each assigned 6 seats.

Mr. Spinelli (sp. rep) said "In the Territorial Council as reconstituted the traditional forces of the country are represented more or less as they were in previous one. All the groups of tribes have their representations. The representation is on a territorial basis, that they always come to an agreement among themselves, so that all the important ethnical groups are represented in the Territorial Council ..." (TCGR 11th sess 416th meeting 1952 P11)
Twelve seats are assigned to the political parties. The members are nominated to these seats from lists containing twice as many as the number of seats to be filled. A branch of a party with at least 200 members may be considered as a branch of a party for the Territorial Council.

One seat has been granted to a representation of cultural organ and 8 seats are assigned to the economic group.

One seat is allotted to the Italian Community, one is held by the Arab Community and one is jointly held by the Indian and Pakistani Communities.

The system of representation which in the opinion of the Visiting Mission appears to be very complicated.

Mr. Zonov (U.S.S.R.) said "The report States that the population as a whole is represented in that organ including political parties and then some economic categories or groups and minority cultural organisation. I should like to know what these economic categories are ..."

Mr. Spinelli (Sp.rep) said "The eight seats in the economic category are held by four Somalis and three Italians and one Arab. Of these four indigenous representatives, three are chosen by the Municipal Councils of Merca, Chisimaio, Villahruszi, Galcaio, Margherita and Belet Uen. One is chosen by what we might call the labour union of the country. The three Italians are appointed by the Chamber of Commerce of Mogadiscio and the one Arab by the Arab Communities of Mogadijio and Chisimaio. Each of the 8 representatives is chosen among Somalis or Italian traders who are interested in economic Affairs" (TCOR 12th sess. 463rd meeting 1953) P 32).

"As regards the matter of representation, the Mission is of the view that the present system, which attempts to combine proportional representation of functional groups unnecessarily complicated. It leads to increasing fragmentation of the political scene structure by placing a premium on the multiplication of political parties and their branches. The system also leads to the creation of new parties solely for the purpose of securing representation in the Territorial Council and
This complication leads to factionalism of its political structure. As Mr. Hure had said that there is "a danger which this may entail: the creation political feudism which might result in restraining the expression of indigenous opinion and in placing the central authority in jeopardy." The terms of office for the members is for one year. They may be renominated to the council. The council holds three plenary sessions each year. Discussion proceeds with an introduction by a government official on the agenda placed for the discussion. After the introduction, the members comment on it and then the whole discussion is summarised by the administrator who acts as the chairman of the meeting. Members cannot be persecuted or put under arrest without the prior authorisation of the administrator unless they are found in the act of committing a crime.

The Territorial council is vested with the powers of discussing the problems of government excluding those matters relating to foreign and defence affairs of the Territory. Legislative powers remain with the administrator until such time as an elective legislature has been established. The administration has almost always accepted the proposals and amendments because these parties can aspire to represent the majority opinion in any community within. At the present time this system places the administration under the obligation of extending or refusing to extend recognition to each party which may be organised in the territory and of forming some judgment regarding the relative strength and importance of the various parties. In the future not withstanding the increased use of electoral techniques, the composition of legislative body will still be logically determined by the Administration.
through the process of assigning to the various parties and groups the number of seats which each is to hold."

6. "The Mission believes that in a society which is unfamiliar with the notion of representative government, the aim should be to establish as simple a system of government as is practicable." (UNVM 11th session, 1952, Sup. no. 4 T/1033 p. 10-11).

Mr. Soldatov (U.S.S.R.) asked "In what cases the administration did not accept the Territorial council's proposals or did not consult the council at all and why?"

Mr. Spinelli (Special Representative) answered that "Administration has always accepted the proposals and amendments submitted by the Territorial council and has taken no decisions without consulting it except in cases of urgency. Administration has followed virtually all the suggestions and advice of the Territorial council. We used that formally because, in view of the fact that every law comprise many fields, the opinions of the Territorial council were not clear in some cases. Thus we could not say that we had done what the council advised every time because of the cases in which council's advice was not clear. I remember one instance when we proposed that in the Municipal council of Mogadiscio there should be one Italian for each Somali and the Territorial council said that there should be two Somalis for each Italian. We accepted the council's advice when the advice of the Territorial council has been clear we have followed it on every occasion." (T.C.O.R. 11th session, 417th meeting 1952, p. 1).
Residency Council:

There are Residency Councils in each of the territory's 27 Residencies. The Residency of Margherita has two Residency Councils, one at Margherita and one at Galib. Each council consists of all Residency chiefs, notables, village chiefs, market supervisors, section secretaries. By the decree of 20th October 1951, there has been a modification of the composition of the Residency council. Under the terms of the decree, a provision has been made for increased representation of the branches of the political parties within the Residency. The political representation in Residency councils is determined on the recognition of those branches of parties which have existed since 1st September 1950. A branch of a party must have a strength of at least 200 members. Each legally recognised party is required to prepare a list of members. The Resident with the help of the local Kadis ascertains its veracity. In the first instance the decision of the Resident may be appealed to the Regional Commissioner and in the second instance to the Administrator. Each legally recognised party is entitled to have two seats. These seats are allotted to a representative from the party branch or directorate in the administrative centre of the Residencies, and

Mr. Mathieson (U.K.) noted that "the Territorial council was largely composed of nominees from the Residency council." He wondered whether the special representative could explain in more detail the process of selection, election or nominations of the members of the Residency councils.

Mr. Fornari (sp. rep) said that "each council was composed of tribal chiefs elected by their people, representatives of political parties market and village chiefs and a number of notables chosen from among the
Power of administration of the municipal services is exercised by the Resident with the existence of the Municipal Councils. In all Residencies including the important towns and villages, there are Municipal Councils. The Municipal Council comprises four categories of members. It includes prominent persons of municipal districts, the representatives of minor non-indigenous communities, the representatives of the arts, professions and trades, the members representing economic classes and the religious or cultural associations. The number of representation for the prominent persons is not less than two or more than five, the non-indigenous communities send one or two representatives and those of trade, profession send one or two representatives, the economic groups choose the same number and the religious or cultural associations have one representation.

Indigenous members are designated by the Residency councils which may select them from among them theirs own members or from among outside persons. In agreement with the communities concerned the Resident designate the non-indigenous members.

In most of the cases about 90% of the members of the municipal councils are Somalis.

Mr. Spinille (sp) "It is the administrations' idea that the Residency Council just as is the case with other councils, should always be legislative not executive bodies. Each Residency council is composed of 29 or 30 persons. In a few years - the advice of these councils will have to be followed by the administration. Of course at present the Resident and the responsible executive officers are for the most part Italian. Little by little they will be replaced by Somalis. In the Latin meaning of the word, a council is a body which advises, which can make laws but cannot execute them. That is the conception we have in Italy and it is being applied to Somaliland." (T.C.O.R. 11th session, 417th meeting 1952 p.2-3)
The function of the municipal council is purely advisory. The administration is required to seek the advisory opinion of the council in matters which concern the estimates of budget, the regulation for municipal services or institution, the expenditure of the budget covering there years, investments, the levying of taxes and some other matters affecting the municipalities.

Municipal services are financed by the revenue that is accrued out of the municipal taxes such as taxes on licenses, on the occupation of public areas, market taxes and slaughter taxes. Those municipalities which are not capable of maintaining the municipal services out of the income earned from their resources are given financial aid from the centre.

16. Mr. Spinelli (sp.rep.), "In principle the administration had decided to have the municipal councils only in the cities or villages which have a Resident. Now, Dinor, Dolo and Galib do not have a Resident. However, as they are quite important villages, we decided that there should be a municipal council not only in 27 cities and villages that have a resident but also in those villages." (T.C.O.R. 11th session 417th meeting 1952 0. 4)

16.//. Mr. Spinelli (Sp.rep.), "Before telling any decision in certain matters the Resident is obliged to ask the advice of the Municipal Council. Such questions concern the budget of the municipality, the municipal institution and services the alienation of real estate or public funds taxes of buildings for a period of more than five years, taxation of projects for new public works, and the other matters of less importance. The advice of the municipal council must be given before the Resident (Ibid p.4)."
Suffrage:

Up till now, the territory has had no real experience in the operation of an electoral system. The administering authority has not yet found it to introduce an electoral system throughout the territory. Before introducing a system of election, the administration feels it desirable to establish a civil register for the purpose of registering the voters. The visiting Mission has opened that the introduction of election should not be conditional upon the establishment of the system of elections. However, the administering authority holds the view that when a civil register is established, elections will be first held in

\[12\] Mr. De Marchena (Dominican Republic): "My question refers to the matter of Suffrage. I would ask the special representative to be kind enough to inform the Council whether or not the Administering Authority is of the opinion that universal suffrage could now be established in Somaliland." (p. 7)

Mr. Spinelli (special representative for Somaliland): "The Administering Authority is of the opinion that universal suffrage cannot be established at the present time nor even within the next few years in the whole Territory. We shall start first in the larger centres, such as Magadiscio and Merca, and if the experiments there are successful, our efforts may be extended over a wider field. Naturally, the extending of suffrage to the nomadic population is a matter which we feel is not yet ripe for examination. (T.C.O.R. 11th session, 471st meeting, 1952, p. 8)

\[13\] The Mission of the opinion that however desirable civil register may be for general social purposes, its establishment should not be much a condition precedent to the introduction of elections. All this is required for electoral purposes is a single system of registration of voters. On this basis it should be possible to hold elections in the principle centres of the Trust Territory at an earlier date than would be feasible if the establishment of a general civil register were awaited. (UNYM, T.C.O.R 1952).
important administrative centres and if encouraging results are found, the system of elections will be gradually extended to other centres. At present the administering authority has no idea of holding the elections on the basis of universal suffrage.
Native Authorities:-

The social structure of the territory is based on the tribal system. The men, compelled by a vigorous climate, lead a nomadic life with no permanent settlement. The indigenous society is marked by a conspicuous absence of a sense of solidarity and unity among the tribes. There exists no integrated system of authority binding together numerous units. Even within a group there exists a long standing head which is occasionally compromised but never comes to an end.

The patterns of political organisation are based on the tribal authority. The head and the tribes are the political units. The selection of the tribal chiefs is made by the tribal people and the administrator confirms their appointment. They act as the intermediary between

Mr. Soldotov (U.S.S.R.) said, "Administering authority was encouraging and strengthening the tribal system by forcing the Spaulis to create new tribes and even carrying out the purges among the tribal chiefs many of whom had been replaced by pro-Staline elements." (T.C.O.R. 9th sess. 352nd meeting 1951, p. 52).

Mr. Serions Garcia (El Salvador) said, "What's steps has the administration taken to promote the spirit of unity and solidarity among the tribes."

Mr. Spennill (sp. Representative) said, "It is not an easy question to answer because first of all there are divisions not only among the tribes but among the ethnic groups. There are four or five important ethnic groups. There are the Dacot the Haia, the Sob, the Dir. We cannot consider them as tribes because each of these ethnic groups has hundreds of tribes. Also now even in the political parties and in any field these divisions can always be noticed. They are also considering belonging to certain ethnic group and are very often together with other persons from the same ethnic group. However I have to admit that in the political movement and in the town a tendency towards better relations between these big four or five groups into which the country is divided is growing."
the administration and the people. They are responsible to the Resident for the direction of tribe affairs and for the communication and enforcement of all administration acts affecting, the tribe. In maintaining order and security the resident is assisted by them. It is their duty to keep the resident informed regarding the movement of the population which happens to be a characteristic feature of the tribe.

Notwithstanding the fact that the chiefs have local powers, indigenous political authorities are not regarded as the agents of administration.

Among the tribes or the race which are a subdivision of the tribes, there are also some traditional feudes going on that started century's ago. The administration has tried to bring the tribe together and succeeded in some cases; in some cases they succeeded temporarily because usually when they make an agreement they respected it until the next dry season when there is no water. Then they start to feud again over a well or around a river and we have to intervene again. Generally speaking our local authorities succeeding in patching the differences but we can never be sure that the agreement they sign will be kept. The next season the smallest incident can start a war between the groups." (T.C.O.R. 11th session, 416th meeting 1952 p. 11).
There are at present eight political parties and their head quarters are situated in Mogadiscio. The eight political parties are the Hishla Dighil and Mirifle, Somali Youth League, Lega Progressista Somala, Unione Africani Somalia, Union Nazionele, Somala, Unione Manifere Somalia, Associazione Gioventu Abgal and Associazione Gioventu Dir.

The first five political parties will have their representatives in the territorial council. Since the parties have their branches in the various party of the territories they are allotted seats in the Residency Council.

Hishla Dighil and Mirifle have forty five branches in the nine localities. Its membership is derived from the Dighil and Mirifle population in the area between the Giaba and Ulebi, Seebcli. Recently the party has been split into two; one of these stands as the temporary committee claims to represent 90% of the party membership in Mogadiscio.

The Somali Youth League was formed in 1943. It gained preponderance over other parties; it is nationalistic in temperament. The total membership is about 150,000.

Lega Progressista Somala: It has fourteen branches in nine localities in northern part of the territory. It is opposed to the Somali Youth League. It believes that the Italian assistance is necessary for the development of the territory.

Union Africani Somalia: This party has 75,000 registered members and represents 48 tribes. It favours a policy of collaboration with the administration.
Unione Nationale Somala:- The party has forty-four branches and it expresses satisfaction with the efforts made by the administration.

Union Maniferro Somalia:- The total membership of the party is three thousand and there are 25 branches. It is also in favour of following a policy of collaboration with the administration.

Associazione Gioventù Dir.: It was formerly known as the Youth club. It is now regarded as a cultural and social organisation by the administration.
The administration of justice is based on the Italian penal and civil codes and the Somaliland judiciary rules. In civil cases and with certain limitation in penal cases, Koromian and customary law is applied to indigenous persons.

There are courts with indigenous judges and there are courts with Italian judges. In each Residency and the commissionerates there is Resident court and the Regional commissioners courts. The judicial functions are exercised by the Resident and the commissioner. But the administration is proceeding to separate the judicial and the executive functions by appointing magistrates in the judicial posts.

As Mr. Spinalli said (special representative for Somaliland) "The administration has already requested enough Italian magistrates to cover all the most important towns of the Territory, so that instead of the commissioners on the Residents having judicial functions, magistrates will have them. In the next period, which we hope will be very soon, we want to extend that also to the smaller centres; the twenty-seven or thirty-three other important villages or towns. It is not easy to get such a larger number of Italian judges, but we have already requested the first six for the most important centres, and we hope we shall have the others very soon. Thus, in each important centres of the Territory there will be a magistrate, and not an executive officer, in charge of the local court."

The civil litigation affecting the Italian cause

within the jurisdiction of the Resident courts, Regional commissioner's courts and the judge of Somalia. An appeal lies in the Regional commissioners courts from the judgment delivered by the Residents courts for amounts exceeding 20 Somalis. Decisions of the Regional commissioner courts may be appealed in the first instance before the judge of Somalia. Similarly appeal in the second instance from the judgments of the judge of Somalia may lie in the court of Appeal in Rome. The court of cassation considers certain judgments on appeals.

The criminal jurisdiction over the Italians is exercised by the Resident's courts, the Regional commissioners courts, the judge of Somalia or the court of Assizes according to the gravity of the case. Appeals from the sentences follow the same procedure as in the civil cases mentioned above. But there is one exception. An appeal from the sentence of the court of Assizes cannot be made except by reference to the Court of Cassation.

All civil cases concerning the indigenous persons come before the Kadi's and from there appeal will lie to the Kadi's courts. Appeal can also be made from the Kadi's court to the Administrator.

Criminal cases involving the indigenous inhabitants are judged by the Kadi's the Regional commissioner courts and the court of Assizes. Appeals are referred to the Kadi's court and the judge of Somalia. Sentences of the Kadi's court may be appealed against before the Administrator and these of the Judge of Somalia and the court of Assizes may be placed before the court of cassation.
Historical survey:

The territory of Ruanda-Urundi is the most densely region of Central Africa. During the colonial expansion of the German Empire in Africa, the territory came under the German control. It became a portion of German East Africa. Until the first war of 1914, the German suzerainty continued; but, following the defeat of the German Empire in the world war, the combined military forces of Great Britain and Belgium occupied the territory. At the end of the world war I, Ruanda Urundi became a "B" mandated territory and it was assigned to Belgium. The Government of Belgium assumed administration in 1922, although it was not until October 20, 1924 that the mandate was formally accepted by the Belgian Parliament after concurrence of the United States had been secured by treaty April 18, 1923. Under the terms of the mandate, the territory was administered under a Vice-Governor General as an integral part of the Belgian Congo but the provision for maintaining a separate budget for the territory was given. The basis of the administration was laid down in the act of August 1925. Under the terms of the act, the laws of the Belgian Congo must be specifically designated by the Governor-General as applicable to the mandate. The two units, Ruanda and Urundi, were each supervised by a resident with headquarters at Kigali and Kiliga. Usambara is the capital.

A revolt broke out against Misinga, King of Ruanda-Urundi. The movement was anti-white and spread across the border into the south west corner of
Uganda. The Belgian and British forces restored order.

With the out-break of the second world war, the mandate system ended and following the conclusion of the war, the Trusteeship system came into operation. The territory was placed under the Trusteeship system and the General Assembly of the United Nations approved the trusteeship agreement for the territory on 13th December 1946. This agreement was subsequently ratified by Belgian Government by Act of 25th April 1949.

Area, topography & climate:

The Trust territory of Ruanda-Urundi is situated in central Africa between latitudes 1° 4' 30" and 4° 28' 30" south and longitudes 28° 60' and 30° 53' 30" east of Greenwich covering a total area of 54,172 square kilometres.

The area is mountainous, some peaks rising to over 2500 metres. Most of the territory consists of a high plateau varying between 1200 and 2000 metres in altitude and of temperate climate. Rainfall varies extremely from area to area. It is extremely irregular in respect of both of the volume of precipitation and its distribution. A small proportion of land is available for agricultural purposes. The territory is entirely denuded of forests. The lack of forests not only aggravates the problem of erosion, but is also partly responsible for irregular rainfall, which in turn makes agriculture a hazardous matter. The lack of rain in any year may create famine conditions. For a population of nearly 4 million, the territory's food supply is often
inadequate. The problem is aggravated by the existence of approximately one million heads of cattle which because of the social and even political value attached to the cow by the indigenous inhabitants, tends to increase year by year and so reduces the area of land available for food crops.

Population:

The territory is densely populated. The density varies greatly over land of every unequal fertility.

The following catalogue will give the composition of the population as recorded in 1952, January:

<table>
<thead>
<tr>
<th>Population Category</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indigenous population living under Chiefdom</td>
<td>3,90,47,79</td>
</tr>
<tr>
<td>Indigenous population living under extra customary centres</td>
<td>5,30,15</td>
</tr>
<tr>
<td>Non-indigenous Europeans</td>
<td>43,25</td>
</tr>
<tr>
<td>Asiatics</td>
<td>14,98</td>
</tr>
<tr>
<td>Africans</td>
<td>1,00</td>
</tr>
<tr>
<td>Half castes</td>
<td>13,70</td>
</tr>
</tbody>
</table>

In normal circumstances, the population is to increase by 1,000,000 annually; at that rate it would double in less than forty years.

The European population consists of missionaries, the Govt. officials, agricultural settlers and persons engaged in trade and mining. The Asians are mainly engaged in trade particularly retail trade.
Of the indigenous population, the Bantu tribe is the majority. In quite recent historical times, the tribe becomes dependent on the Batutgi - a minority tribe, believed to be of Nilotic origin but have in cases with marked Hamitic characteristics. They are a pastoral people of remarkably tall and striking feature and they constitute the governing aristocracy and gives Ruanda Urundi their ruling families. A third and more primitive tribe is the pygmoi known as Batura which comprises a small minority. The population is organised irrespective of ethnic groups into two similar but separate feudalised states - Ruanda and Urundi.

Status of the Territory and its inhabitants:

The basis of the status of the territory has been laid down in the law of 20th April 1949, which approving the Trusteeship Agreement is the organic law of the territory. But the law of 25th April 1949 does no more than give a formal approval of the trusteeship agreement and therefore, the status of the territory rests fundamentally on the law of 21st August, 1925. As the Chinese delegate Mr. S. S. Liu said "the territory's status cannot rest on an outmoded law such as the one of 21st August, 1925, in as much as at least some of its features, which were based over the mandate system have necessarily been modified since the replacement of the system by the trusteeship
At its third session the Trusteeship council expressed the hope to preserve the separate status of the territory either by a revision of the Act of 21st August, 1925 or by some other suitable measure. The first visiting mission of 1943 also urged the administering authority to differentiate further status of Ruanda Urundi from that of Belgian Congo province. In the opinion of the administering authority, the status of Ruanda Urundi, is entirely separate from that a province of Belgian Congo.

The indigenous inhabitants are known as "Native of Ruanda Urundi. Their status has been determined by the Act of 21st August, 1925, article 5 of which provides that rights granted to the inhabitants of Belgian Congo by the law of that territory extend subject to qualifications contained therein to persons under the jurisdiction of Ruanda Urundi. The term "Native of Ruanda Urundi" has not been defined by law. All problems are now settled by administrative or court decisions which are gradually forming a body of doctrine of jurisprudence.

1. Trusteeship council off. records 11th session 429th meeting Wednesday 25th June, p. 3.
ADMINISTRATIVE UNION:

The fundamental law of Ruanda-Urundi was the act of 21st Aug. 1925 which had set up the administrative union between the Belgian-Congo and Ruanda-Urundi. The administration had always construed the act as implying co-operation between the two territories, not the subordination of one to another. The Act of 25th April 1949 approved the trusteeship agreement and did not repeal any of the provisions of 1925.

The Governor-General of Congo is the head of the administrative union. He exercises his powers with regard to Ruanda-Urundi in such matters as customs. On all other matters, the Vice-Governor General of Ruanda-Urundi has equal and independent executive and legislative powers.

Art.I of the Act of 1925 states: "The territory of Ruanda-Urundi is united administratively with the colony of the Belgian-Congo... it is subject to the laws of the Belgian-Congo except as provided below." Today, the Trust Territory of Ruanda-Urundi is administratively united with the colony of the Belgian-Congo, as authorised by the trusteeship agreement. Art. 2 states: "Ruanda-Urundi has a separate legal personality. It has its own national property" - today Ruanda-Urundi has a legal personality distinct from that of the Belgian-Congo and it has its own national property - "its revenue and expenditures are set forth separately in the colony's budget and accounts. Any transfer of funds from one to the other is forbidden."
Art. 3 states: "The legislative decrees and ordinances of the Governor-General, the provisions of which do not apply solely to Ruanda-Urundi, shall apply to that territory only after they have been made operative there by order of the Vice-Governor-General who administers the same."

This rule is still in force in the territory and the administering authority has felt no reason whatsoever to change it.

It is incorrect to say that the laws of the Belgian-Congo are applicable to Ruanda-Urundi with the concurrence of the Vice-Governor General. The laws of the Belgian-Congo are applied to Ruanda-Urundi by act of the Vice-Governor General. An act of the Vice-Governor-General is required to extend to Ruanda-Urundi such provisions of the Congo legislation as the Vice-Governor-General deems appropriate. If the Vice-Governor-General considers that a Congolese legislative provision is inappropriate for Ruanda-Urundi, it does not come into effect in Ruanda-Urundi. Moreover, the Vice-Governor-General Council is separate from the Council of Govt. in the Belgian-Congo.

Art. 4 states: "Recruiting for military or police duty shall be governed in Ruanda-Urundi by special rules. The indigenous inhabitants of the country can be recruited only into the local police or for the defence of their territory." As an explanation to this rule, Mr. Rijskmane said - "if we so wished we could modify this provision as the Trusteeship Agreement contains special provisions in that connexion. Since, however, we have never required military or police duty at the indigenous inhabitants of Ruanda-
Urundi and have no intention of so doing, we have not undertaken any obligations in agreement with the Security Council in regard to the re-organisation of international peace and security although we could have done so. Consequently, the rule against requiring military or police duty of the indigenous inhabitants of Ruanda-Urundi remains in force. There is no reason to change it."

Art. 5 states: "The rights granted to the Congolese by the laws of the Belgian-Congo shall be extended under the distinctions they establish, also to the inhabitants of Ruanda-Urundi." It is intended to extend the same rights as those which apply under the Belgian Constitution to the Congolese in the Belgian-Congo to the inhabitants of Ruanda-Urundi in Ruanda-Urundi.

Art. 6 states: "Provisions of the Congolese laws which are incompatible with the provisions of the Mandate or of the agreements approved by the acts of 20th Oct. 1924, shall not apply to Ruanda-Urundi". The wording of this article is automatically replaced by "Provisions of Congolese laws which are incompatible with the Trusteeship Agreement shall not apply to Ruanda-Urundi" - since the trusteeship agreement was put into effect by the Act of 1949.

The administrative Union, as envisaged in the Act of 21st Aug., 1925 and later agreed upon by the trusteeship agreement, raised some concern in the trusteeship council. Some have apprehended that the administrative union would preclude the existence of a distinct personality and in course of time would assimilate in the

(2) Mr. Tarazi (Syria) said: "The administrative Union of Ruanda Urundi with the Belgian-Congo by linking a
province of the Belgian-Congo. The administering authority assured the Trusteeship Council in its third session that the separate entity of the territory would be preserved. In the opinion of the visiting mission of 1948, the administrative union should be based on the principle of partnership and not on subordination. It made some suggestions. The General Assembly recommended by a resolution 224(iii) at its third session to take such safeguards which would preserve the distinct political status of the territory. The committee on Administrative Union in its final report on 11th July 1950 found "no evidence to indicate that the administrative union of Belgian-Congo and Ruanda-Urundi is incompatible with the provisions of the Charter of the U.N. and the Trusteeship Agreement for Ruanda-Urundi. On the contrary, the operation of administrative Union was at present well within the framework of the existing instruments.

trust-territory with a colony directly controlled by the Belgium Govt. was not fully in accordance with the Charter and the Trusteeship Agreement. The Belgian Govt. had undertaken to administer the territory as a Belgian territory, but the essential difference was that the Belgian Congo's future was uncertain, while the trust-territory was designed for independence. The Vice-Governor-General's emergency power to issue orders independently of the Governor-General of the Belgian-Congo did not alter the fact that Ruanda-Urundi was in practice under the Governor-General's control (T.C.O.R 13th Sess. 517th meeting 1954, 280).

Mr. Tsarpkin - "Under the Act of 21st Aug. 1925, Ruanda-Urundi was a Vice-Government General of the Belgian Congo. The union between Ruanda-Urundi and the Belgian Congo would make it almost impossible for the Trust-Territory ever to attain self-govt. and independence. The A.G's policy was directed at assimilating and subordinating the Trust-Territory, despite its particular international status, to the colonial status and economy of the Belgian Congo. The ultimate result would be the complete disappearance of every vestige of trusteeship. The administering authority had tried to prove that the Union was purely administrative and the political individuality of the trust territory had been maintained. That was patently not so ... the numerous laws and regulations enacted by the Belgian Parliament and the Governor General of the Belgian Congo, showed that Ruanda-Urundi was being politically administered and economically
The Governor of Ruanda-Urundi, who bears the title of Vice-Governor-General of the Belgian-Congo, is the executive head of the territory. He is designated by the Belgian Govt. and invested with powers which he exercises by means of ordinances. He is assisted by a provincial commissioner and the heads of various departments.

Besides the administrative staff, he is advised by an advisory council known as the Vice-Govt. General council. Members of the council are appointed by him. On all policies and proposals he consults the council and the recommendations submitted to him by the council are considered by him and in rare occasions he overrules them.

Since the territory retains the separate legal personality, the Governor of Ruanda-Urundi is not subject to the authority of the Governor-General of the Belgian Congo. Under the provisions of the administrative Union, except on matters of common concern, the Governor of Ruanda-Urundi has independent executive and legislative powers. Any act of legislation made by the Governor-General of the Belgian Congo affecting the territory of Ruanda-Urundi is required the approval of the Vice-Governor-General. And if he considers them inappropriate, the said act does not come into effect in Ruanda-Urundi.

The same laws and regulation applied indiscriminately to both territories and there was not a single sphere of activity in the Trust Territory which was not under the control of the colonial administration of the Congo (Ibid P.281).

Mr. Tarapkin (U.S.S.R) "noting that the trust territory formed part of an administrative union with the colony of Belgian Congo of which it constituted a Vice-Govt. General and that it was subject to the laws of the Congo asked whether that state of affairs not somewhat inconsistent with the provisions of the Trusteeship Agreement".

Mr. Leroy (Sp.Rep) answered that "Ruanda-Urundi
The Governor has very limited powers to initiate legislation for the territory. The power of legislation is vested in the Belgian Parliament, the crown and in some degree in the Governor-General of the Belgian Congo. In cases of emergency, he can legislate an act of temporary validity. In the legislative field, his authority is confined to a very limited field.

So far the judiciary is concerned, he appoints the judges of the non-indigenous courts. Previously, he was regarded as the highest judicial authority. But with the remodelling of the judicial organisation of the territory, the judiciary is separate from his executive authority. Except his power of appointing judges, he has no other power and his function as the President of the Court of Appeal is taken up recently by a professional Magistrate.

ADMINISTRATION:

The administration is under the authority of the Governor who is assisted by a provincial commissioner and by a staff of officials appointed to the various departments. In 1948 there were thirteen departments, but the number increased to fifteen in 1950, with the reorganisation of former department of justice and personnel into two separate departments and with the splitting of the departments of Land Titles into one department concerned with land registration and another concerned with land surveys.

its Governor like the Governor-General had extraordinary legal powers in urgent matters. Moreover, executive powers were vested in the Governor directly by statute and he did not have to go through the Governor General of the Belgian Congo (T.C.O.R. 13th Sess, 516th meeting 1934 - P.272).
The staff of officials appointed to the various administrative departments consists of 524 Europeans and 529 indigenous inhabitants of the Trust Territory and of the Belgian Congo possessing civil status. In addition, there were 5,048 African employees without such status. All the higher posts in the administration are all held by Europeans.

The Trusteeship Council at its third and ninth session emphasised the importance of increased indigenous participation. At its 11th session, the special representative commenting on the question of giving African posts in the Belgian administration said that there existed a powerful indigenous organisation from the sub-chief to the Mwami and it seemed that the future independence should be achieved as the result of progressive transfer of power from non-indigenous to indigenous authorities and not by the introduction of indigenous persons into the Belgian administration.
There exists in the territory two parallel systems of administration - the Belgian administration and under its general supervision a system of indigenous administration.

The Belgian administration is under the direction of the governor who is assisted by a provincial commissioner and the heads of the administration. Indigenous administration is carried out by the chiefs or sub-chiefs in their respective areas. They provide the link between Belgian administration and the indigenous administration. There is a division of responsibility between the two administrations - the Belgian administration is chiefly concerned with the management of the European population, although it retains a degree of control over the indigenous administration. The indigenous authorities, on the other hand, are entrusted with the administration of the native affairs and are restricted to exercise any measure of control over the European administration.

This dual administration, in the opinion of the administering authority, is in conformity with the necessities of the present situation and the wishes of the inhabitants and it presents no obstacle to the future development of central institution. Many representatives, on the other hand, opined that the dual system of administration would tend to retard the political and economic progress of the territory.

The desirability of closer fusion between the two was felt

2. Mr. Khan (India) said "The present political organisation was strange and out of date. The existence of two parallel administrations, each apparently independent of the other was hard to understand. The local administration seemed to exist to carry out the orders of the Belgian administration. The reforms adopted in 1952 and put into effect in 1953 seemed to amount to little. They had made the local administrative organisation more elaborate but not more effective. The real power remained with the Belgian administration. Such measures would not enable the territory to achieve self-government or independence". (T.COR, 13th sess. 516 meeting 1954, p. 272)
by them. Commenting on this desirability Mr. Leroy said *the two were not kept in waterlight compartments; the only real barrier between the two was that raised by the Decree of 14 July 1952, pursuant to which only nationals of Fuanda-Urundi could serve on the superior councils of the two pays. The present dual system could be remedied in either of two ways by the transfer of the powers of the European authorities to the indigenous authorities or by the replacement of European by indigenous officials. There were great drawbacks, however, to both alternatives if all powers were transferred to the indigenous authorities there would be the question of the rights of the Europeans, Asians and non-indigenous Africans living in the territory to be considered; if Belgian officials were replaced by indigenous officials, there would be the danger of conflict with the customary authorities.* The only democratic solution lies in evolving one system of administration. Political progress lies in increasing the points of contact between the two systems until the two merge into one.

No legislative organ exists in the territory. A council of the vice-governor-general of Ruanda-Urundi has existed since March 1947. This is an advisory body to which the public opinion in the territory is associated with the work of central administration of Ruanda-Urundi. The council included no African members until 1949, later on in April 1949, the two Bami were included in the council as the full members. From time to time an opportunity in the participation of the council was extended to the chiefs who attended the sessions of the council when questions of vital interest affecting the people were discussed. The council, as it is now constituted now, is composed of the vice-governor-general, the provincial commissioner, the public Prosecutor, the two Residents and the two Bami, all of whom are ex-official members: (five European officials and two Bami). It includes nine members designated by the Governor from lists of candidates put forward by organisations representing the chambers of commerce, settlers associations, employers organisations and association of employees. Eight of these members are Europeans and is an Asian. It also includes

5. Mr. Leroy said until 1947, there had been no organ in the territory similar to the council of the vice-govt. general all measures of a binding character had been taken by the executive or legislative branches of the govt. after consultations with the people. The council of the vice-govt. general established in 1947, had excluded no African members until 1947 when the Mwami of Ruandi and the Mwami of Urundi had taken their seats as full members of the council. Four chiefs had also attended the 1950 sessions of the council, at which the ten year plan for the economic and social development of the Territory had been discussed. Another African member and an alternate had been participating in the work of the council early in 1951. Further more, five chiefs had attended the council during the explanations of govt. policy in the Territory. Most of the suggestions made by the council during 1950 had been carried out (T.C.OR. 9th sess., 357th meeting p. 94).
six members who are appointed by the Governor either as "notables" or as representatives of the indigenous populations. Of the six members two of them are African chiefs, the third is an African apostolic vicar, the fourth a European apostolic vicar, the fifth the representative of the Alliance of Pratectorate Mission and the last, the directors of the govt. Savings Bank. The total strength is twenty two.

The council as it is constituted in its present form is not representative of the population. The number of the members of the indigenous community are small; and its membership is derived not from the institutions of the two pays. The weightage is given in the inclusion of the members of the European community. It may be true that the European members are more advanced and equipped in the understanding of the legislative procedure than the indigenous members; but it is also desirable that an opportunity should be given to them to make themselves acquainted with the business of the govt. of the territory and this can only be done by including more African members in the council. The council should of necessity, be constituted on a representative basis by increasing number of African

Mr. Tsarapkin (U.S.S.R.) - The council of the Vice-Govt.-General was purely advisory; it had no power to take decisions and was dominated by Europeans. Out of a total of 22 members only three were indigenous representatives and the two of them were the Bami whom it was utterly absurd to claim as truly representative of the indigenous population. They were nothing more than very highly paid Belgian Govt. officials; they were not democratically chosen but inherited their functions and even, then they had to be confirmed in office by the govt. The real power in Ruanda-Urundi was not exercised by the Bami but by the two Residents (T.C.O.R. 13th sess., 517th meeting, Tuesday, 16th March 1954 p. 282).
members in it. As a first step in this direction, the High
councils of the Ruanda and Urundi should be given the right
of electing some members in equal numbers from the each
council to the vice-governor-general council. Of the total
numbers thus elected, a small percentage of the represen-
tation, it is desirable, shall include commanders.

The council is an advisory body. It is a form in
which most questions of importance concerning the territory
can be debated and recommendations therein made to the govt.
The advice of the council is sought by the govt. on certain
of its legislative proposals and policies. The council
generally discusses the proposals and it also on its own ini-
tiative places the items on the agenda. Such issues as are
brought before the council are discussed with
and particularly the items affecting the economic interests
of the territory arise vigorous discussions. The council
holds its sessions for only a few days each year.

A small proportion of the draft legislation which
will eventually be adopted by the king acting on the advice
of the colonial council is placed before the council. In
all matters concerning the interests of the local popula-
tion, the opinion of the council is sought. The indigenous
inhabitants participate indirectly in the exercise of the
legislative power. Mr. Leroy the special representative
for Ruanda-Urundi said, "No measure affecting the local
population in one way or another is enacted without that
population being consulted. First of all there is the
Council of the vice-governor-general. The council is
advisory in nature but it is nevertheless a fact that all
the views and recommendations handed down by it are given
serious considerations when legislative texts are drawn up. The king never promulgates a decree without the decree having been submitted to him by the authorities of the territory. In turn those authorities never draw up a decree without having submitted the question to the Mwami, who informs his council of it and discusses it with the indigenous authorities and various persons around him who are interested in the matter. Thus the indigenous inhabitants participate indirectly in the preparation of legislation. In matters that are of direct concern to them, such as the question of cattle, brush fires and similar matters, not only are the indigenous inhabitants consulted but the administering authority would do nothing without securing their agreements.

The inhabitants of the territory are thus associated with the work of legislation indirectly. The Trusteeship Council has all along recommended that more power should be given to the vice-governor-general’s council on the assumption that it would eventually become the legislative organ of the territory. The Mission considers that legislative power cannot be granted to the council without first modifying its actual composition. So long a central legislative organ with some wider powers cannot be created, the vice-governor-general’s council constituted with increased


As at present constituted, it is not representative of the population as a whole, nor does it derive its membership from the institution of the two pays. It seems clear that this could not satisfactorily exercise powers of legislation for the territory as a whole without the substantial changes in its composition involving a clear relation to indigenous institution in two pays. Pending further development of the political institution of the two pays and a careful study of relationship between them and a central legislative body, the vice-governor-general’s council with increased African representative could usefully be retained as an advisory organ and as one that would possess indigenous
African representative may become an effective organ in which the people will be associated in the work of the Govt.

The procedure of legislation needs some more explanation. From the legislative standpoint, the territory is subject to the four kinds of legislation. First, supreme legislative power is exercised by the Belgian parliament in the form of "Acts," secondly, ordinary legislative power is exercised by the crown in the form of decrees, thirdly, Governor-General of Belgian Congo has the power to issue legislative ordinances. Decrees and legislative ordinances made by the Governor-General of Belgian Congo are not applicable to Ruanda-Urundi unless expressly stated or unless the governor of Ruanda-Urundi makes them applicable. In cases of urgency, the governor may temporarily suspend the validity of decrees and sign ordinances having the force of law. The question is how much comes under each category.

The control of the parliament and the governor-general of the Belgian Congo over the legislation of the territory is not exercised to a great extent. As Mr. Leroy, the special representative of the Australian govt. said: "It was only rarely that the Belgian Parliament passed acts applicable to the territory; usually legislation was by decree promulgated by the crown after consultation with the colonial council; in cases of emergency, the governor of Ruanda-Urundi was authorised to issue a legislative ordinance suspending the decree......... Accordingly, the two descriptions of a
legislative ordinance enacted by the governor of Ruanda-Urundi was that it took the place of a decree of the crown not of provisions enacted by the governor-general of the Belgian Congo. The only ordinance issued by the governor-general which were immediately applicable in Ruanda-Urundi were those concerning customs or postal services for all other matters the governor-general issued ordinances for the Congo and the governor of Ruanda-Urundi made them applicable to the territory or else issued his own ordinances. The Syrian representative had also criticised the participation of the govt. the council of Ministers in the drafting of decrees. There was however nothing of the sort; draft decrees were prepared by the African services and sent to the Minister for the colonies, who submitted them to the colonial council, when the council had given its views, the decrees were submitted to the crown for signature. That way the only part the govt. played in the matter, so that the composition of the govt had no practical effect on the drafting of the decrees.9

Indigenous political structure:

Before giving a description of the indigenous political institutions, it is necessary to dwell on the conditions of the political organisation that existed prior to the intervention of the Belgian administration in the territory. At the time when the Belgian Govt. had been entrusted with the administration of Ruanda-Urundi, that territory was divided into two separate Kingdoms, Ruanda in the North and Urundi in the South. The inhabitants of these two territories lived in isolation sometimes as enemies, sometimes as indifferent neighbours. "Even when they were theoretically at peace with each other, it was a common practice for the inhabitants of Ruanda to practise witchcraft on the soil of Urundi, and vice-versa, in order to bring misfortune upon the heads of their neighbours".

"In addition, there was a long-standing resentment between the two countries owing to the fact that a Mwami of one country had once been killed in battle by the Mwami of the other country. It may, therefore, be said that until Belgium took the administration Ruanda and Urundi lived as enemies, at least as potential enemies".

"The Belgium administration had had to respect the customs of the two countries, which differ considerably. Its efforts have always been aimed at at a possible Union of the two. The enemy, however, was so great that the administrator has had to proceed with invincible prudence and tact." Prior to the intervention of the Belgian administration, there had been a system of tribal institution which was based on the chieftainship and subchieftainship. "The similarity

Mr. Simon (Sp. rep.) stated that at the time when the Belgian Govt. had been entrusted with the administration of Ruanda-Urundi, that territory was divided into two separate Kingdoms, Ruanda in the North and Urundi in the South. In
of the tribal institutions of Ruanda and Urundi made it possible for the administration to draw up a political organisation scheme in 1943. The scheme provided for a single organisation for the two councils due account being taken of their separate existence and their traditional institution, but in view of the similarity of this political structure - rights and duties of the indigenous authorities - it may be hoped that they will be brought closer together.

Under the system of indigenous political organisation, there are two pays, Ruanda and Urundi. Each pay is headed by a Mwami who is designated by custom and invested by the Governor of the territory. Each pay is divided into chiefdoms (fifty one in Ruanda and thirty-six in Urundi), each chiefdom is headed by a chief who is appointed by the Mwami in each kingdom there had been a well established political system of chieftainship and sub-chieftainship under the supreme rule of the monarch of Mwami. The administering authority had retained these indigenous institutions in them entirely and had introduced improvements gradually, taking care not to offend the susceptibilities of the population.

"In the earlier days the Mwami had been the all-powerful master of his kingdom. The Belgian administration had set up chieftains councils headed and presided over by the Mwami and composed of chieftains and notables. These councils were frequently attended by the colonial administration. Regional councils were also set up in each of the two kingdoms composed of the supreme chiefs and all the native personalities whom the council wished to consult either permanently or temporarily. These councils did not meet regularly, but only when the administrative need arose and could be called into session by order of the administrator or resident".

"The centres outside the chieftains areas, where the unattached indigenous populations lived had their own special councils chosen by the indigenous population itself and attended by representative of the Belgian authorities."

"The indigenous population did not participate directly in the higher administration of the territory but the administration never failed to consult indigenous councils on matters relating directly to the tribal or private lives of the population."

"The population had complete freedom to express its views through these councils" (T.C.O.R. 3rd sess. 1st meeting 1948 - p. 34-35).


Mr. Lesure (Argentina) asked what were the factors which governed the Mwami's selection of chiefs and sub-chiefs
accordance with the local custom and is invested by the Governor of Ruanda-Urundi. Each chiefdom is divided into sub-chiefdoms (626 in Ruanda and 492 in Urundi). The sub-chiefs are appointed by the Mwami and invested by the Resident.

Two higher indigenous councils (conseils de pays) one for Ruanda and one for Urundi exist. The council includes all the chiefs in each pay as members and each council has a permanent committee consisting of five chiefs. Besides this council, there is a chiefdom composed of the chiefs and the notables.

The Bami, chiefs and sub-chiefs are vested with powers and they derive the prerogatives from the established customary law; but their prerogatives are subject to limitations which are fixed by ordinances and regulations of the European administration. The Bami and the chiefs on their own accord may issue regulations. The European authorities have not only the power to issue regulations, but they can also annual or suspend the regulations passed by the Bami and the chiefs. The Bami and the chiefs are subordinate the Belgian administration. The indigenous authorities assist in the enforcement of measures of public order health, sanitation, agriculture and the like as prescribed by the European administration. It is true that on all matters concerning the interests of the population the administration consults with them, but this

and about the procedure followed by the administration in investing them?

Mr. Leroy (sp. rep.) said there were two main types of communities in the territory - the indigenous chiefdoms and the centres extra coutumiers. The administering authority had always been most careful to respect local custom in the chiefdoms and intervened only to invest the chiefs and sub-chiefs who were chosen in accordance with local custom. The chiefs could not exercise their functions until their nomination had been confirmed by administering authority, but he knew of no instance when such confirmation had been withheld. It might be withheld if the chief-elect was flagrantly unworthy of the post but in such a case it was doubtful whether
consultation, though it has grown as a matter of adminis-
trative policy, is not theoretically obligatory. Indigenous
authorities are generally restricted to a very limited
field of action and except in the exercise of their judicial
functions, they occupy a subordinate position.

In addition to their administrative functions
the chiefs exercise certain judicial functions. The chiefs
act as the judges of the indigenous tribunals and administers
justice in accordance with the customary laws. They are
entitled to contributions in kind, in labour from the
indigenous inhabitants in their respective jurisdiction.
But in recent times, the Belgian administration has made
the cash redemptions of those contributions compulsory. The
judicial functions of the chiefs are regarded as one of
their main prerogatives.

Apart from the indigenous chiefdoms, there are
extra-customary centres. These centres lie outside the
chieftains areas and close to the principal European
settlements. A number of indigenous inhabitants live in
the centres. The persons living in these areas do no longer
come under the traditional indigenous political institu-
tions. A separate political system exist for them. The chiefs
are appointed for the extra customary centres by the
administration. The judges of indigenous tribunals of these

the indigenous population would ever select him as a
candidate." (TCOR 9th sess. 557th meeting 1951, P.100)
12. Mr. Leray (Sp. Rep.) said the centres extra-quotamiers
were heterogenous groupings where no particular set of
customs and tradition could be applied. The development
of the people in those centres had been advanced by
the contact with the non-indigenous population and with
other chiefdoms and other races. The chief of these centres were
appointed from among the judges of the Centres Tribunal
centres are appointed by administration and not by the Mwami. The administration tried to institute a system of popular representation in these centres. The selection of the council members by ballot was attempted in Usumbra and in Rumonge. But the effort did not meet with success. The reason was due to the lack of understanding of the people of the elective process.

By a decree dated 14th July 1952, the indigenous political structure is to be reconstituted. The essential feature of this reform is to establish at the level of subchiefdom chiefdom, territory and pays, the councils. Election of members of the various councils will follow a procedure corresponding to the stage of development of the population. The council of each sub-chiefdom will be composed of the sub-chief and five to nine notables who will be elected by their peers on the basis of a list of notables prepared by the sub-chief taking into account the wishes of the population. The Higher councils will be composed of the equal numbers of representative of chiefs and sub-chiefs and of representative of notables who will be chosen by a system of indirect election by notables of the lower councils. Finally, the councils superior of each pay, presided over by the Mwami is to include four persons who will be chosen by a decree dated 14th July 1952, allegedly reforming the indigenous political structure, was to maintain the old order and preserve the powers of the two Rami and tribal chiefs appointed by the Government and entirely under control of the administration, by transforming them into paid civil servants. The administering authority thus intended to perpetuate the colonial regime in the trust Territory. The reform was undemocratic and entirely at variance with the purpose and principles of the international Trusteeship system. The administering authority's policy in that respect was a serious obstacle to the political economic
for their knowledge of social, economic, spiritual and cultural problems of the pays and four indigenous persons who are holders of the civic merit certificate or who are registered and eight members (with one exception, all are commoners)

On all matters the various councils have to be consulted. The chiefs are required to take consent of the council in order to validate the decisions taken by them and the Bami, with the consent of their High councils, can in certain fields adopt orders which have the force of law. Previously the existing councils were consulted only. There will be standing committees which will be composed of five well-informed members of the High councils. They will meet at frequent intervals throughout the year in order to assist the Bami in the implementation of the decisions of the councils.

The political reform introduced on 14 July 1952 holds out great promise of political development on the indigenous political structure. Though it retains certain feudal aspects, this reform is to be commended as a first step in democracy. The degree of representation of the masses is broadened by making the notables participate in the elective process at the sub-chiefdom level. These notables elected as members include the persons of various ethnic groups in the territory. They comprise not only the persons of eminence but also persons engaged in business, clerks in Govt. service and in general educated persons of all kinds who are progressive in spirit and show much initiative.

and social advancement of the Trust Territory and if continued, Ruanda-Urundi would remain for decades in its present state of backwardness and apparent oppression. (T.C.O.R. 13th sess. 517th meeting 1954 p. 282).
The scheme seems to remodel the existing indigenous councils. Many members in the Trusteeship council have appraised the scheme and some have also suggested to broaden the scheme by including the establishment of the territorial-wide council in the territory.

In favour of it, it is argued that since the unification of the two pays is a precondition for political development, the establishment of the territory-wide council would serve the purpose of unifying the two states. An approach in this direction may be made by the administering authority. But that would depend on the degree of success attained by the proposed reform. However, the success of the proposed reform depends on two factors - one, on the vigilance, interest and understanding of the people and two, on the degree of control exercised by the administration on them. While the first has some importance the second has more importance than the first. The degree of control of the administration should be flexible - in other words, the control can be exercised only in offering them guidance and advice and encouragement in discharging their functions freely. The powers of veto and injunction should be kept in reserve, as a last resort in a grave emergency.

Mr. Scott (New Zealand) said, "In the political field, the council would appreciate the significance attached by the administering authority to the reorganisation of the indigenous political structure, embodied in the Decree of 14th July 1952. The administering authority was apparently well aware of desirability of ensuring the political unity of the territory, which was still composed of two practically feudal states. The establishment of various councils, which was marked by the beginnings of an electoral system was a step forward. It might be desirable for the administering authority to consider the establishment of a territory-wide council, above the superior councils of each 'pay' thus encouraging the unity of the two 'pays.' In that way the administering authority would establish a system of govt. by council extending from the tribal unit to the national unit. A national
Under the existing political and social regime, the indigenous inhabitant has little possibility of making himself heard except through chiefs and there exists no opportunity of presenting his views to representative institutions. At its third session, the Trusteeship council recommended for the introduction of some form of electoral system in the territory. An attempt was made to institute a system of election in the extra-customary centres by the establishment of electoral bodies in Usumbura in 1948; but the effort boiled. Following this failure, a new attempt was again made in 1950 at Rumonge. Elections were conducted for councillors but proved unsuccessful owing to the general backwardness of the people to understand the electoral machinery. A new attempt was again made in 1951. There were local administrative preparations for the election of six councillors to succeed those whose term of office expired on September, 1951 in the extra-customary centres of Usumbura. But only one candidate came through the election and all others are designated by administering authority. This proved that the indigenous inhabitants were not matured enough to take part in elections. In 1951, the visiting Mission recognised the difficulties and recommended that what was required was a comprehensive plan including a series of steps designed to eliminate the obstacles.

council might be more effective than an expansion of the vice-govt. general's council. The administering authority could aim at the gradual extension of the indigenous council's powers, more particularly their financial responsibilities." (T.C.O.R. 13th sess. 516th meeting 1954 p. 276)

The Mission having regard to the present degree of political and educational advancement, is fully aware of the difficulties inherent in the development of an electoral system and considers that the administration is to be commended for its first attempts to introduce such a system in the extra-customary centres. It is to be hoped that some profit can be drawn from the experience. It seems logical that a start should be made in the extra-customary centres whose inhabitants for the most part have attained a higher level of education than those living under the customary system and are now to
Indigenous and non-indigenous judicial systems exist in the territory side by side - but the separation of powers is a fundamental principle of the Belgian administration. The separation of the judicial and executive powers is one aspect of the judicial organisation which is linked up with the question of the territory's political evolution. Previously the judicial organisation was closely interwinked with the executive branch of the administration. The prerogatives of judicial powers were vested in the officials of the government who functioned as the judicial heads. The administration, having felt the necessity of the separation of judicial powers from the executive introduced a decree of 5th July 1948, put into effect on July 1949, has considerably modified the judicial organisation. As far as the non-indigenous courts are concerned the separation of judicial powers from the executive is considerably secured. The decree of 5th July 1948 which had gone into effect 1st July 1949, had ended the old system in which all judicial posts had been held by the administration the governor having in theory at least the right to be the supreme judge of all disputes. All non-indigenous higher courts were now presided over by career magistrates and all offences punishable by sentences exceeding six months imprisonment must be judged under the supervision of a career magistrate. Under the new system the legal procedure for civil and criminal matters which was followed in Belgian law was considerably modified, free of the restraints of that system, obiter dictum. Obviously single isolated measures cannot achieve the goal of popular representation can not be achieved by single isolated measures. What is required is a comprehensive plan, including a service of steps designed to eliminate the remaining obstacles to the political evolution of those living in the extracustodial centre and to extend those measures to those living under the customary systems. (UNVM T.O.C.R. 11th sess. p. 7)
Congo and was on a par with that of the most advanced nations of the world so far as protection of individual rights was concerned, was compulsory in the territory.\(^{15/17}\).

So far the indigenous courts are concerned this separation of executive and judicial powers cannot be achieved. Mr. Leroy said that "the administering authority had always regarded the complete separation of executive and judicial powers in both indigenous and European courts, as one of its main objectives. No such separation, however, could yet be made in the chiefdoms, because the chief regarded their main prerogatives, while the people regarded their judges as the real chiefs. To deprive chiefs of their judicial functions would be to deprive them of all their powers."\(^{16/18}\).

But the administration is trying to improve upon the existing system through administrative measures. Since 1950, it has become more and more common for the chiefs who preside over the indigenous courts, are being replaced by deputies appointed for that purpose. The Murama, in his capacity as the president of the Murama court has now been provided with a deputy judge who presides over the court frequently. As it should be noted, however, that the Mura of Uranda overburdened by administrative duties, had just appointed an alternate justice in his stead. That was the first instance of such separation of powers in the case of Murama. In the distributed areas, however, the position was much easier, there...

\(^{15/17}\) Speech delivered by Mr. Leroy - T.G.O.R. 9th sess. 357th meeting 1951, p. 94

\(^{16/18}\) Ibid p. 100
was already a certain distinction between judges and coun-
cillors."

The judicial system of the territory falls into two
categories - non-indigenous and indigeneous. Since 1949, the
former have included, in addition to the council de guerre,
the police courts, the tribunaux du parquet the tribunaux de
residence, the court of first instance and the court of ap­
peal.

The Governor of Ruanda-Urundi is the chief prosecutor a
and appoints the officials of the public prosecutor's office
His duties are now carried out by King's prosecutor who is assisted by deputies - all of them are professional
magistrates.

Under certain circumstances, the Governor of
Ruanda-Urundi is entitled to preside over the court of
appeal. The President of the court is now a professional
magistrate.

Residence courts are presided over by the
Residents. Moreover, it is compulsory for a professional
magistrate to sit on these Resident's courts to represent
him. They only deal with offences punishable by not more
than twenty years penal servitude.

17. Mr. Scott (New Zealand) asked whether the Adminis­
tering Authority had considered appointing career Magistra­
to the residency courts and Police Courts.

Mr. Leroy, the administrative, had not yet been
able to adopt that practice the police court magistrate was
a Civil servant, but a procedure for review existed which
was stricter than the appellate procedure. Even judgment
against which the dependent made no appeal were reviewed by
the career, so that no police court decision was made
by a Civil Servant without a review by a Magistrate.

The residency courts were presided over by the Rese-
dency and also included a career Magistrate whose duties as
protector of the indigenous inhabitants took priorities
The territorial administrators are the police courts magistrates and the supplementary judges are only appointed by the Governor with the approval of the King's Proctor. But previously the police court magistrates used to be purely and simply appointed by the Governor. The courts deal with offences, both non-indigenous and indigenous. They deal with indigenous offences punishable by not more than 6 months imprisonment with hard labour or a fine of not more than 2,000 francs.

A new form of court has been set-up the Public prosecutor's courts. They are presided over by professional magistrates and are competent to review judgments as the judgements handed down by the Police Courts and civil actions involving sums not exceeding 25,000 francs. They control the native courts and the police courts.

The indigenous jurisdiction comprises customary and extra customary courts. The customary courts are the tribunaux de chefferie, the tribunax de Territoire, and the tribunaux des Bami. The non-customary courts are the tribunaux de centre and tribuxaux de revision. Indigenous courts are presided over by the chiefs who retain their judicial prerogatives. But a gradual transformation is initiated through administrative measures. As noted above.


Mr. Munro (New Zealand) with regard to the composition of the Residency tribunals the Judges on the Residents but the court must include a career Magistrate can the special Representative tell me whether the career Magistrate will eventually replace the Resident as the judges in the court?

Mr. Leroy - The Residency tribunal is composed of a judge who is usually the Resident an official of the administrative, and a career Magistrate who belongs to the judiciary and is a career judge. From a practical point of view, this provision was made to avoid the exercise of
the chiefs are being replaced by deputies who are appointed for the purpose and the Murami is provided with a deputy judge.

The indigenous courts deal only with civil cases but they are also empowered to award damages. Decision made by the indigenous courts may be brought to review in the court of review within three months after the date of the decision. The rules of procedure of the indigenous courts are those fixed by custom in so far as they are not repugnant to public policy and where the custom is silent they are based on the basis of equity.

Mr. Scott (New Zealand) observes that the jurisdictions of the indigenous courts in civil matters was unlimited and asked if these courts could impose fines. Mr. Laroy answered that these courts dealt only with civil cases and that consequently indigenous courts never imposed fines. They were however empowered to award damages and could fixed that amount having regard to the damage costs, (I.C.O.R. 13th session, 516th meeting p. 271).