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CONVENTION RELATING TO THE STATUS OF REFUGEES

Its History, Significance and Contents

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I. BRIEF HISTORY OF THE CONVENTION

The problem of the status of refugees dates back to the close of the First World War. Although before that time there had been individuals who had left their home country and subsequently lost their nationality without acquiring another citizenship (stateless persons) or who had to leave their home country for political reasons, their numbers were comparatively small and the only real problem involved in the case of political refugees was that of refuge or asylum. The great changes in the political and social structure in Europe, which principally followed in the tidal wake of the cataclysmic breakdown of the centuries-old Russian and Turkish empires, resulted in a mass exodus of persons who were refugees from the new regimes. They were mostly Russians and Armenians, whose total figure amounted to a million persons. The later establishment of the Fascist regime in Italy resulted in tens of thousands of Italian refugees while the Civil War in Spain added hundreds of thousands of Spanish refugees. The creation of the Nazi regime in Germany and the occupation by Nazi Germany of other regions - the Saar, Austria, Sudetenland and the Protectorate¹⁾ - resulted in a new wave of refugees.

Whatever their origin, all these persons had one characteristic in common: they were foreigners in the country which received them, but differed from other foreigners of the same origin in that they did not enjoy the protection of their country and they could not or did not want to return to their former homeland for fear of persecution. As such they created novel problems which had been practically unknown until that time: how to provide them with identity and travel papers; how to treat them in regard to their personal status, such as family relations, etc.; how to deal with them in regard to the right of occupation or vocation, acquisition

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The part which remained after the Sudetenland, Slovakia and Carpatho-Russia were detached from Czechoslovakia.

of property, access to courts and so on.

To cope with these problems the nations involved resorted, i.e., to international agreements and arrangements. Because the most pressing question, on an international level, was that of identity papers and travel documents, the first three international instruments concerning refugees dealt exclusively with the issue of certificates of identity. They were the July 5, 1922, arrangement concerning Russian refugees, the plan of May 31, 1924, relating to Armenian refugees, and the consolidated arrangement of May 12, 1926 dealing with both groups. The first international instrument to deal with the legal status of these two categories of refugees was signed in Geneva on June 30, 1928. On the same date an arrangement was signed to extend to certain other groups of refugees (Assyrians, Assyro-Chaldeans, Turks) the provisions of the arrangements relating to the issuance of identity papers. It is noteworthy that while the first two arrangements were each accepted by over 30 states, the third was accepted by 20 and the two following only by 10 each. Even less enthusiasm was shown for the agreement concerning the functions of the representatives of the office of the League of Nations' High Commissioner for Refugees which had been set up in the interim: only two states accepted this arrangement.

The 1928 agreement was worded in the form of resolutions recommending that the states accepting it, adopt certain measures for the protection of the Russian and Armenian refugees. This temporary arrangement was supplanted by the regular Convention relating to the International Status of Refugees signed at Geneva on October 28, 1932. It also dealt with the other groups of refugees referred to above, but was only accepted by 8 states.

In the meantime the afore-mentioned exodus from Germany began and the international machinery also began to deal with them, although rather slowly. On July 30, 1935 the plan for the issuance of certificates of identity for refugees from the Saar was signed and in due time was accepted by 16 states. The July 4, 1936 provisional

arrangement concerning the status of refugees coming from Germany (accepted by 7 states), dealing both with identity papers and certain aspects of the legal status of the German refugees, was followed by the Convention Concerning the Status of Refugees Coming from Germany, signed on February 10, 1938; it was accepted by 3 states only. This Convention was made applicable to refugees from Austria by the international protocol of Sept. 14, 1939 which was accepted by 3 states. Although these conventions became legally effective, their import could not be significant because of the small number of states which adhered to them.

With the end of World War II the problem of refugees assumed far greater dimensions than ever before, but the only international agreement to be signed in their behalf was the London Agreement of October 15, 1946, concerning the issuance of travel documents to refugees from Germany and Austria, Spanish refugees and some smaller groups, all of whom were the concern of the Intergovernmental Committee on Refugees. As of today it has been accepted by 18 states; an additional number of states is implementing it informally. The status of the new categories of refugees was regulated by the Constitution of the International Refugee Organization (IRO). In Germany and Austria the occupying powers established a special status for refugees, but in other countries practically nothing was done to regularize their status. The IRO succeeded in making arrangements with Luxembourg, Italy, Belgium and France on a restricted scale (in regard to identity documents and permits to work). In other countries the IRO was restricted to interventions in specific instances only.

The above state of affairs in which the status of "historical," pre-World War II, refugees was regulated by international agreements, even though these were valid in a restricted number of states only, while that of the new refugees was not treated similarly, led to a resolution by the Human Rights Commission adopted during its second session. Another reason for this decision was the necessity of adapting the existing conventions to the new conditions created after the war and to the development of international law under the United Nations. On the basis of the resolution of the Human Rights Commission, the Economic and Social

Council, on March 2, 1948, adopted Resolution 116 (VI) (D), requesting the Secretary General of the United Nations i.e. to undertake a study of the existing situation in regard to the protection of stateless persons and to make recommendations on the interim measures which may be taken by the United Nations to further this objective.

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As a result of the Secretary General's Study The Economic and Social Council, on August 8, 1949, adopted Resolution 248 (IX) (B) appointing an Ad Hoc Committee consisting of representatives of 13 governments. Among its tasks was consideration of the desirability of preparing a revised and consolidated convention relating to the international status of refugees and stateless persons and, if it so decided, the preparation of a draft of such a convention. The Ad Hoc Committee convened on Jan. 16, 1950, in Lake Success and on Feb. 16 completed its work with the adoption of a Draft Convention Relating to the Status of Refugees and a Protocol thereto Relating

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to the Status of Stateless Persons. The report of the Ad Hoc Committee was considered by the Economic and Social Council (in its Social Committee and the plenary meetings) during its eleventh session. The Council decided to reconvene the Ad Hoc Committee so that it might revise its draft in the light of the comments made by Governments and the discussions and decisions of the Council. It was asked to submit the draft, as revised, to the General Assembly at its fifth session. The Council recommended to the Assembly to approve international agreements on the basis of the drafts prepared by the Ad Hoc Committee. In pursuance of this resolution the Ad Hoc Committee met in Geneva from August 14 to August 25, 1950 and prepared a revised version of its original draft.

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The fifth session of the General Assembly did not deal with the substance of the draft convention. Instead it decided to convene a conference of plenipotentiaries in Geneva to complete the drafting of such a convention and a protocol on the status

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Document E/1392.

3)
The Report of the Committee was distributed as Doc. E/1618, E/AC.32/5.

4)
The Report of the Committee was disseminated as Doc. E/1850, E/AC.32/8.

of stateless persons. An important reason for this decision was to permit non-members of the United Nations, which may so desire, to participate in the final drafting of the document. The Assembly recommended, however, to the governments which will participate in the conference to take into consideration the draft convention prepared under the auspices of the Economic and Social Council. The Assembly dealt with one problem: in connection with the adoption of the Statute of the United Nations High Commissioner for Refugees, the Assembly prepared a definition of the term "refugees" for a convention,⁵⁾ and recommended to the respective governments that they take this definition into consideration when preparing the text of the Convention on the Status of Refugees.

The conference of plenipotentiaries met in Geneva from July 2 to 25, 1951. Twenty-six states were represented by delegates and two governments by observers. The Conference adopted, by 24 votes to none, a Convention Relating to the Status of Refugees and a Final Act containing i.a. five recommendations to the respective Governments. It resolved, however, to refer the draft protocol on the status of stateless persons who are not refugees,⁶⁾ to the appropriate organs of the United Nations. This item is now on the agenda of the sixth session of the General Assembly because it was felt that the subject required more detailed study.

This ended the drafting stage. There remains the problem of putting the Convention into effect, i.e., of formally signing and approving it, in the way prescribed by the domestic law of the states involved, and by their depositing their approval with the Secretary General of the United Nations.

To date the Convention has been signed (but not yet ratified) on behalf of 14 states: Austria, Belgium, Colombia, Denmark, Israel, Lichtenstein, Luxembourg, the Netherlands, Norway, Sweden, Switzerland, Great Britain, Turkey and Yugoslavia.

5)
Resolution 429 (V), Annex.

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For instance, persons who have been living outside the country of their nationality, have lost their former citizenship but have not yet acquired another nationality; persons born from stateless parents, etc.

II. SIGNIFICANCE OF THE CONVENTION

The Convention is the expression of a conviction by the comity of nations that refugees are not a temporary phenomenon which can be dealt with either by half measures or piece-meal, but is one requiring a concerted effort by all states concerned, and that refugees ought to be granted such facilities which will assure them a sufficient measure of fundamental rights and freedoms. The Convention is also based on the recognition that an appropriate solution of the refugee problem is required to prevent their problems from becoming a cause of tension between states.

In particular, the Convention is significant in the following respects:

(a) It is an attempt to establish an international code of rights of refugees on a general basis. Until now there existed - as stated in the preceding section - several conventions which dealt with different groups of refugees but all together covered only a small portion of the persons who are in need of an international guaranteed status, at the present moment.

(b) Although many of the provisions of the present Convention have been modeled upon those of previous arrangements, the scope of rights included in this Convention exceeds that of any earlier agreement. It is the first agreement which covers every aspect of life and guarantees to refugees - as a minimum - the same treatment as to foreigners not enjoying special favors. None of the previous conventions had such a general provision. Similarly, the scope of rights explicitly established in the Convention is broader than in any of the previous agreements. For instance, the 1938 Convention concerning the Status of Refugees coming from Germany, did not contain such important provisions as: the prohibition of penalties for illegal entry into the territories of a state by a bona fide refugee; special stipulations covering the rights of refugees to acquire property or to be engaged, as independent persons, in agriculture, industry or handicraft; the

right to enjoy the benefits of rules governing rationing and housing accommodations; the obligation of the state to issue documents certifying the exercise of rights by refugees (for instance, proof of family status, diplomas), etc.

(c) The treatment accorded refugees by this Convention is not infrequently more favorable than by any of the previous agreements. Thus while the conventions on Russian and German refugees accorded to refugees no more than the social security or relief provisions equal to the most favorable treatment granted foreigners, the present convention equalizes their status with that of nationals of the country of refuge. The earlier conventions merely granted refugees in all schools the same rights as foreigners in general; the present Convention treats them as nationals in regard to elementary education. The convention concerned with German refugees permitted expulsion to the country of persecution if the refugee refused, without what was considered to be sufficient cause, to make the necessary arrangement to proceed to another country. The present Convention only permits expulsion of such refugees concerning whom there are reasonable grounds for considering them to be a danger to the security of the country of refuge, or if they have been convicted of a particularly serious crime.

(d) The Convention is the first to have enlisted the participation of such a considerable number of states in its drafting. Representatives of no more than 12 states participated in the conference which drafted the first agreement on the legal status of refugees (Russian and Armenian). This number decreased to 5 when the Convention was revised. Representatives of 8 states took part in drafting a provisional agreement on the status of German refugees and this number decreased to 7 when the permanent convention was drafted. Even when the first post-Second-World-War refugee document, the 1946 agreement relating to the issue of travel documents, was written, only 16 states sent representatives. The fact that the Conference of plenipotentiaries which drafted this Convention was attended by representatives of 26 states and two observers, must make it more acceptable to the governments.

Furthermore, in the conferences before the Second World War only European states participated as a rule, while this conference was attended by states from all five continents.

(e) All preceding conventions referred to European refugees only (except for Armenian and assimilated refugees.) The present Convention can be applied to refugees from any part of the world.

The significance of the Convention will become clearer upon analysis of its provisions. Surely, it contains a number of provisions which could have been more liberal. The restrictive nature of these stipulations was due mainly to the desire of the framers of the Convention to reach unanimity in the Conference and not to write a document which may be ideal in its wording but would not be acceptable to many governments. It must be pointed out that the provisions of the Convention need not be applied by the states as they have been drafted: ⁷⁾ most of them may be weakened by reservations. Much will therefore depend on the conditions under which the individual governments will agree to adhere to the Convention. Of the 14 states which so far signed the Convention, only one made extensive reservations.

The significance of the Convention was expressed by the President of the Conference in the following words: While the Convention did not fulfil all the desires either of Governments or of those responsible for the care of refugees, it did establish a satisfactory legal status which would be of material assistance in promoting international collaboration in the refugee field.

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See Section III (C) (e) below. It must be pointed out that the provisions of the Convention need not be applied by the states as they have been drafted:

III. THE CONTENTS OF THE CONVENTION

The provisions of the Convention could be divided into three major sections:

(a) the provisions establishing the prerequisites for its application, (b) those dealing with the rights accorded to refugees, and (c) the procedural provisions which include the articles referring to the way in which the Convention comes into force, its validity, language, amendments, relations to other treaties, and so on.

A. The prerequisites for the application of the Convention

1. Specific features of the Convention (scope, minimum and facultative rights).

As mentioned, the Convention differs from the international agreements which have so far been concluded, first of all, in its scope. The former agreements related to a strictly limited group of refugees, while the present Convention embraces all existing refugees, insofar as they were deemed to be worthy of international protection, and, as a rule, grants all of them the same status, regardless of their origin or the time when they became refugees. The result has been to abolish, in the states which will adhere to the Convention, the preferential status which certain refugee groups enjoyed, and to establish in its stead the protection of refugees generally on the basis of non-discrimination. To achieve the purpose of uniformity the Convention prescribes that it replaces all previous international agreements on the status of refugees between the parties to it. The Convention even explicitly prescribes that its provisions must be applied to refugees without distinction as to race, religion and country of origin.

Another important feature of the Convention is its establishment of minimum rights for the refugees as an obligation incumbent on every signatory, except when some of them are not applicable in a given country under a permissible reservation.⁸⁾ In addition, it obligates or encourages states to grant more liberal rights whenever they exist at present or this is possible. Thus, as an example, the Convention provides that if refugees are at present granted rights beyond those accorded by the Convention, in a signatory state, these rights are not to be impaired because they are not specifically mentioned therein. The same relates to instances where certain groups of refugees enjoy a specific preferential status (rights granted to aliens ordinarily on the basis of reciprocity) to which they are not

⁸⁾ See Subsection C (e).

entitled under the Convention. Furthermore, in many instances the states undertake to grant to refugees treatment "as favorable as possible," but "not less favorable" than those enjoyed by other foreigners. In one instance they are required to accord refugees treatment "at least as favorable" as their own nationals enjoy. In these instances every signatory state is bound to observe the minimal scope of the specific right in question but is requested to extend the scope as far as it can. An important interpretive problem arises, however, as to the scope of the obligation incumbent on the states by the phrase "as favorable as possible." Who decides what is possible? In principle, no doubt, the state concerned but there may be a dispute as how far the state actually could go. The dispute could be considered as one relating to the application of the Convention and would then be decided in the same way as all other disputes of this kind.⁹⁾

2. Definition of the term "refugee"

The aim and purpose of the Convention is to assure to refugees a minimum standard of rights. But to do so, the Convention must first of all describe in unequivocal terms the categories of persons falling under it. This is the task of the term "refugee." The authors of the Convention, following the definition proposed by the General Assembly, established two groups of persons who are considered as refugees for the purpose of its application.

The first group could be called "statutory" refugees, i.e., persons who have already been considered as refugees under previous international agreements or under the Constitution of the IRO. This means that the Convention embraces post-World-War I Russian and Armenian refugees, those assimilated to them (Turkish, Assyrian and Assyro-Chaldean), pre-World-War II German and Austrian refugees (former nationals and stateless persons who, before they fled were established in Germany or Austria) and such post World War II refugees as were the wards of the IRO under the provisions of its constitution. The latter category

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For a description of the procedure see Subsection (B) (g) below.

comprises (in addition to victims of Fascist and similar regimes) persons who cannot or are unwilling to avail themselves of the protection of their country of nationality or former residence in consequence of events subsequent to the outbreak of the Second World War; Jews from Germany and Austria not firmly re-established in those countries, and displaced persons.

The second group embraces persons who are accorded the status of a "refugee" for the first time. It consists of two sub-groups, one possessing a nationality and the other without a nationality. There are two conditions applicable to both groups: (a) they must be outside the country of their nationality or of their habitual residence, and (b) they must be there as a result of events which took place before January 1, 1951. Persons with a nationality meeting these two tests are to be considered as refugees only if they are outside the country of their nationality owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group, or political opinion and are unable or, owing to the fear of persecution, unwilling to avail themselves of the protection of the country of their nationality. In case of a person with a dual or multiple nationality the above conditions must equally apply to all countries of nationality. Persons without nationality, meeting the first two tests, are considered refugees if they are unable or, owing to well-founded fear of persecution, unwilling to return to the country of their former habitual residence.

A person coming under the second group may be considered a refugee even if he had already applied for such a status to the IRO but was turned down.

The first group is clearly described in the documents to which the Convention refers. The second group is only depicted by reference to "events occurring before 1 January 1951" without specifying in what part of the world they occurred. The Convention grants every state the right to state unilaterally whether it will apply the Convention to persons who became refugees as a result

of events which occurred in Europe only or in Europe and elsewhere. This declaration can be made at the time of signature, ratification or accession to the Convention, but a state which had restricted its obligation in respect to persons who became refugees as a result of events in Europe, may at any time extend the scope of the Convention to any other part of the world by notification to the Secretary General of the United Nations.

Since one of the basic reasons for a person's being recognized as a refugee is residence outside of his country of nationality or domicile, a refugee who returns to his country loses his status by this very fact. Furthermore, as the presence of a refugee who is a stateless person outside the country of his habitual residence must be based on fear to return, such refugees lose their status if the fear of persecution ceases. An exemption is, however, made in favor of "statutory" refugees who are able to give compelling reasons for the refusal to return, arising out of previous persecution. To take a case in point, this would apply to a stateless Jew who lived in Germany or in any other country in which anti-Jewish persecution took place. In the case of persons possessing a nationality the basic prerequisite is the lack of protection by his state. Consequently, a refugee loses his status if, possessing a nationality, he voluntarily reavails himself of the protection of his country of nationality, or acquires the nationality of another state which grants him protection. If the refugee has lost his nationality, he ceases to enjoy the status if he reacquires it. In the case of persons who lost their nationality or were stateless the acquisition of any nationality with resulting protection has the same effect. The refusal of a refugee to avail himself of the protection of his state must not be arbitrary but is to be based on the inability or the fear of availing himself of such protection. That is why once this fear ceases to exist, the refugee loses his status, unless he can invoke compelling reasons for the refusal to come under the protection of his country, arising out of previous persecution. The exceptions from

the loss of status due to changed circumstances apply only to statutory refugees: the Convention assumes that only in their case could there be "previous persecution." Similarly, the Convention is not applicable to persons to whom the country of refuge grants the rights attached to possession of the nationality of this state, such as in the instance of Germans who fled or were expelled from Eastern countries and live in Germany.

The Convention excludes from its application two groups: those persons who receive protection or assistance from organs or agencies of the United Nations, other than the High Commissioner, during the time of the existence of such protection or assistance (for instance, the Arab refugees); those persons who, although they would normally come under the definition of a "refugee," are not deemed worthy of international protection. They include war criminals in the broad sense of the word (persons with respect to whom there are serious reasons to assume that they have committed a crime against peace, a war crime or a crime against humanity); persons who are considered to have committed a serious non-political crime prior to their admission to the country of refuge (common criminals) and persons assumed to be guilty of acts contrary to the purposes and principles of the United Nations.

Not all persons who satisfy the requirements of the Convention as "refugees" are granted all its rights. As a condition for the enjoyment of rights the Convention often requires that the refugee lawfully stay in the territory of the state of residence. This requirement is explicitly stated in a number of instances- right of association, employment and vocations, housing, etc.- It is, however, not considered a condition for the benefit of all rights. Certain rights are granted refugees who do not stay in the country at all. Sometimes the Convention explicitly deals with refugees unlawfully in the country of refuge, such as in the case of illegal entry.

3. Special categories of refugees

In addition to the ordinary refugees described above, the Convention deals with the particular category of seamen who conform to the refugee requirements as described in the Convention, and who serve as crew members on ships belonging to a Contracting State. The states are called upon to give sympathetic consideration to the establishment of such seamen on their territory and to the issuance of travel papers, or to a temporary admission to their territory, particularly when this would facilitate their establishment in another country.

4. Some special provisions relating to refugees; conditions for according rights and benefits; exemption from measures applied to nationals of foreign countries

In certain cases the refugees are assimilated to the status of foreigners possessing a nationality. But the rights of the latter often depends on the length of time during which they lived in the country or on the conditions of their residence there. In other instances the Convention equalizes the refugees with nationals of the country of refuge. The Convention generally requires that refugees who wish to enjoy the rights granted specific categories of foreigners or nationals must fulfil these same conditions. This is the meaning of the term "in the same circumstances," repeatedly used throughout the Convention. It means that in such cases the refugee must fulfil the same requirements as any foreigner-non-refugee, or a national except those conditions which the refugee by his nature qua refugee obviously cannot fulfil, such as the possession of a national passport or special residence rights.

The specific rights of a refugee may depend on the length of his sojourn in the country. On the other hand, many a refugee was forcibly moved from one country to another, thus cutting down the length of his sojourn in the first country. In other instances he may have been forcibly moved to a Contracting State against or without the authorization of the legitimate authorities, (as was often done by the Germans who transported masses of people to countries occupied by them during the

war.) In order that such forcible movements do not impair the rights of the refugees, the Convention prescribes that when a refugee was forcibly displaced during the Second World War, removed to the territory of a Contracting State and was resident there at the time when the Convention became binding upon the state, the period of enforced sojourn shall be considered as lawful residence. If a refugee was so displaced from the territory of a Contracting State and returned thereto prior to the entry into force of this Convention, the period before the enforced displacement and that after his return shall be combined and considered as one uninterrupted sojourn.

Though a refugee may be formally a national of a State, in fact he cannot enjoy the benefits resulting from such nationality. It is consequently only just that he should not suffer disabilities resulting from the possession of this nationality. As a result the Convention prescribes that a refugee should not be subjected to exceptional measures taken -- primarily in case of war or conflict with the home state of the national -- in regard to nationals of the home state of the refugee solely because of his nationality. Such measures may generally be taken against the person -- internment, restriction of movement -- or against property or interests -- freezing or seizures of property, prohibition or restriction of certain economic activities -- of the nationals. However, the principle of exemption is not absolute. First, if the laws of a Contracting State do not permit such broad exemptions, the state is only required, in appropriate cases, to grant exemption from these measures in favor of refugees. Second, in case of war or other grave and exceptional circumstances a Contracting State may provisionally apply measures essential to its national security against refugees until their status as "refugees" has been established, provided the application of these measures is necessary in their specific case in the interest of national security.

5. Obligations incumbent upon the refugees

While the Convention creates rights for the refugee it also establishes obligations to which he is subjected. Unlike the rights, which are described in detail, the obligations are defined in simple words: every refugee has duties to the country of his refuge; therefore, he has to conform to the existing laws and regulations as well as to measures taken by the authorities for the maintenance of public order.

B. The scope of rights in the Convention

1. Introduction

(a) The twofold nature of the protection

A refugee in exile is faced with a twofold problem: on the one hand he must enjoy a number of rights just as any other resident would in order to be able to practice his religion, establish a family, educate his children, exercise a profession, acquire property, appear before courts, move around the country, etc. On the other hand, his specific status as a foreigner bereft of protection by a state requires certain safeguards and measures which are not necessary in regard to either a national of the state, or a foreigner with a functioning nationality.

The Convention groups all the rights granted to refugees under five headings: (a) religious rights, (b) juridical status, (c) gainful employment, (d) welfare and (e) administrative measures. This is a schematic division sufficient for practical purposes. However, to assess the importance of the Convention for the status of a refugee it may be more appropriate to deal separately with this twofold division of rights.

(b) Rights granted under the Convention

The Convention does not deal with all the rights which an inhabitant of a country enjoys. Indeed, nothing is said about freedom of the press, freedom of the assembly, participation in elections, acquisition of licenses, the right to war damage, and so on. This neither means that the refugee is prohibited from

enjoying them or that he is granted the same rights as nationals.

As stated above, the Convention does not impair the enjoyment of rights granted to refugees by the state independently of the Convention. With this reservation, the provisions of the Convention apply. The scope of rights granted to the refugees varies quite considerably depending on the nature of the right, its importance for the refugee, the traditional reservations made for the benefit of own nationals, etc. Basically, except when more favorable rights are explicitly provided for in the Convention, refugees are accorded the same rights as are granted to aliens generally, i.e. to all categories of foreigners, without taking into account the specific rights some of them enjoy either under domestic legislation of the country concerned or on the basis of reciprocity between the home state of the foreigners concerned and the state of their residence. The latter is done under special treaties concluded between their home state and the state of their residence (contractual reciprocity) or under the legislation of the latter state (legislative reciprocity.) The grant of equality with aliens is a certain step forward in the protection of refugees. For, ordinarily persons not enjoying the protection of a state do not possess any rights whatsoever and the state of their residence may treat them at its discretion. Rights usually granted to foreigners under legislative reciprocity are to be accorded to refugees who have resided in the territory of a Contracting State for three years; refugees who have enjoyed such rights on whatever basis at the date when the Convention entered into force for the given state will continue enjoying them. (This is called "exemption from reciprocity.") The provisions relating to the exemption from reciprocity refer to the acquisition of movable property; self-employment in agriculture, industry, handicrafts and commerce; the exercise of liberal professions; housing, and public education beyond elementary schools and such rights which are not specifically mentioned in the Convention. The Contracting States are requested to consider favorably the possibility of granting rights accorded to foreigners on the basis of contractual reciprocity to any group of refugees as well as rights based on legislative reciprocity, to

refugees other than those who are entitled thereto under the Convention.

2. The rights granted to refugees as inhabitants of the country

The rights with which the Convention deals specifically and which relates to the status of a refugee as a member of the community (specified in 1 (a) above) cover a wide variety of spiritual, economic and fiscal, educational, social and civil rights.

(a) Religion

As regards the exercise of religion and religious education the Convention grants refugees at least the same treatment as is accorded nationals of the state of their residence. The state may provide for specific benefits in favor of the refugees, as, for example, when the character of their religion is different from the dominating religion in the country of refuge such as in the case of Moslems in a Christian state, Catholics in a Protestant state, or vice versa.

(b) Economic pursuits in general

The framers of the Convention took the greatest care to assure to refugees the possibility of earning a livelihood, or of obtaining otherwise the necessary funds to sustain themselves because without such opportunities all other rights become meaningless. The problem involved concerns the exercise of professions and vocations as employees or independent workers, the safeguards attached to employment, labor legislation, social security, and labor union membership; the acquisition of property, payment of taxes and public relief.

(c) Wage-earning employment

Concerning wage-earning employment, the Convention prescribes that refugees must be generally accorded the most favorable treatment granted nationals of a foreign country, in the same circumstances. This is significant because once the state of refuge accords any nationals of any foreign country a certain right in this field, it is automatically extended to refugees who belong to the same category of persons.

The authors of the Convention were well aware that the above rule would not be sufficient to provide a secure and solid basis for the employment of refugees. They suggested, therefore, that Contracting States should give sympathetic consideration to granting refugees in this vital area the same rights as nationals, particularly where refugees who entered their country under immigration schemes or labor recruitment programs were concerned. In addition, they established the following categories of refugees to whom the restrictions imposed on aliens or their employment, for the protection of the national labor market cannot apply:

(a) refugees who were exempt from these restrictions on the day the Convention enters into force; (b) refugees who resided in the country three years; (c) refugees whose spouse or children are nationals of the country of their refuge.

The provision relating to labor legislation and social security is more liberal. Refugees are granted the same status as nationals in respect to conditions of work which are either governed by laws or regulations or else are subject to the control of the administration. These conditions encompass remuneration and overtime payment, hours of work, holidays, restriction of homework, women's and children's work, training, benefits of collective bargaining, etc. The same holds true, as a rule, for social security benefits such as compensation for injury, sickness, old age, unemployment, with but two exceptions:

1. The states need not assure to refugees the maintenance of rights acquired elsewhere;
2. The state is reserved the right to make special arrangements concerning such benefit payments which are made wholly out of public funds or such allowances which are paid to persons not fulfilling the conditions prescribed for the award of normal pensions. Nonetheless, the Contracting States are bound to extend to refugees the benefits resulting from agreements between them concerning the maintenance of rights acquired in the territory of the other state in the same way as they relate to nationals. If such an agreement was concluded between a Contracting State and non-Contracting State, the state of

residence is only required to give sympathetic consideration to extending to refugees so far as possible such benefits. Thus, except for these two reservations, once a refugee is a member of the state's labor force, he enjoys the same status and benefits as if he were a national of that country.

It is, therefore, not altogether logical that, according to the Convention, refugees are not assimilated to the status of nationals in regard to joining or establishing trade unions. Instead they are only accorded the most favorable treatment granted to nationals of a foreign country, in the same circumstance.

Both logical and humane considerations require the Convention to take into account the special position of the refugee as a person whose family or relatives need not necessarily live with him in the same country. That is why it prescribes that the right to be compensated for death resulting from employment injuries or occupational diseases should not be affected by the foreign residence of the beneficiary.

(d) Independent vocations

The authors of the Convention apparently assumed that the right to engage in agriculture, industry, handicraft and commerce on the refugee's own account and to establish commercial and industrial enterprise is not as pressing and essential a necessity, as wage employment. Therefore they provided that refugees in this field of activity should be treated as favorably as possible, but not less favorably than aliens in general, in the same circumstances. This means that states must assimilate them to the status of foreigners not enjoying special privileges but should try to grant them if possible, more favorable rights. The purport of these additional favors is to be decided in accordance with the general provisions of the Convention.

(e) Liberal professions

The problem of liberal professions has always been vexatious because of the special laws regulating the conditions for their exercise. The Convention there-

fore makes a special provision for the exercise of liberal professions by refugees. This provision makes such exercise dependent on the possession of diplomas recognized by the state in which they reside. Only if this condition is met shall the state accord to refugees the same treatment as prescribed for self-employment.

Conscious of the fact that, under the above rule, few refugees of liberal professions will be able to exercise their vocations, the Convention requests the Contracting States to endeavor, within the limits of existing legislation, to place refugee professionals in their colonies or other dependencies.

(f) Public relief

While the Convention creates a number of restrictive conditions for gainful employment, in the important event of the necessity of public relief and assistance, the Contracting States are bound to treat refugees, as if they were their own nationals.

(g) Taxation

Appreciative of the maxim that "the power to tax is the power to destroy," the authors of the Convention strove to safeguard refugees from being adversely affected by taxation. The Convention prevents the Contracting States from imposing duties, charges or taxes on refugees to which their own nationals are not subjected, or to impose upon them higher scales than would apply to their nationals in similar situations.

The only exception relates to the specific position of refugees as aliens or as refugees: the state may charge them for the issuance of documents or identity papers which are required for aliens, and moderate fees for the delivery of documents and certifications given to refugees as proof of the exercise of certain rights.
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See Subsection 3 (b) below.

(h) Acquisition of property

The economic pursuits are intimately connected with the possession and acquisition of property. As regards such acquisition, leases and other contracts, the Convention establishes the same rule as concerning self-employment: the Contracting States have to accord refugees treatment as favorable as possible but not less favorable than that given aliens in general, in the same circumstances.

However, insofar as the protection of industrial property, such as inventions, trade marks, designs and models, trade names and the rights to literary, artistic and scientific work (e.g. copyright), are concerned, refugees enjoy the same treatment as nationals of the country in which they have their habitual residence. Since the privileges resulting from industrial property and literary and similar rights are usually not restricted to one country, the Convention stipulates that in Contracting States, other than that of their habitual residence, a refugee shall be accorded, in this regard, the same rights as are granted there to nationals of the country of his residence.

(i) Rationing

In certain cases the acquisition of goods and housing facilities is subject to governmental regulations which apply to rationing, rent control, assignment of apartments, and so on. The Convention provides that wherever a rationing system exists, which applies to the population at large rather than to certain groups, and which regulates the general distribution of products in short supply for personal use, refugees should be treated as nationals. However, in regard to housing, refugees are to be accorded only treatment as favorable as possible and not less favorable than aliens in general, in the same circumstances. This provision is the result of severe housing shortages.

(j) Education

The Convention only concerns itself with public education. It distinguishes between elementary and all other education. With respect to the first and most

important category refugees are assimilated to nationals. As regards secondary and higher education which involve access to school, remission of fees and charges, award of scholarships and recognition of foreign school certificates, diplomas and degrees, the Contracting States are required to accord refugees treatment as favorable as possible and not less favorable than that granted to aliens generally, in the same circumstances.

(k) Civil rights

One of the rights in which foreigners usually encounter difficulties is the question of access to courts. Traditionally, at least in many countries, courts are deemed to exist for nationals, and foreigners must be accorded such a right by specific rule. In order to alleviate the difficulties with which a refugee may be faced in this sphere, the Convention grants him the right of free access to courts of law in the territory of all Contracting States. Free access does not, however, imply the absence either of certain requirements (such as deposits to guarantee the expenses of the other party known as - cautio iudicatum solvi) or accordance of all rights including free legal aid to, or exemption from, court fees in case of indigent claimants. Under the Convention refugees are granted the same treatment as nationals in the country of their habitual residence as regards access to courts, legal assistance and exemption from cautio iudicatum solvi. This assimilation is carried over also to other countries: in countries other than that of his habitual residence, a refugee enjoys the same rights as granted to a national of the country of his habitual residence.

(l) Traditional freedoms

A basic freedom is freedom of movement. The Convention accords refugees the right to choose their place of residence and to move freely within the territory of the accepting state, subject to such regulations as are applicable to aliens in general in the same circumstances. On the other hand, as regards non-political and non-profit associations, refugees are to be accorded the most favorable treatment accorded to nationals of a foreign country in the same circumstances.

3. The specific rights of a refugee

The specific problems facing a refugee qua refugee are manifold: He is a foreigner, but one with no ties to a particular country. He consequently possesses no passport. Having left his country for political or similar reasons, he cannot obtain documents relating to his family and other status from the authorities of the state of which he formerly was a citizen or resident. He has no home country and therefore no place to go, if he has to give up his residence in the country of refuge; often he entered that country illegally. For these and similar problems a solution must be found and the Convention establishes rules governing such situations.

(a) The problem of personal status

Refugees are faced with the question on the basis of what law their personal status is to be established. This includes legal capacity (age of attaining majority, the legal capacity of married women), family rights (marriage, divorce, adoption of children, property status of the spouses), and succession and inheritance (the part of the estate which goes to the surviving spouse, what heirs exclude whom, the right to dispose of property by testament.) Ordinarily, the personal status of a foreigner is governed either by the law of his nationality as holds true in most continental countries of Europe or that of their domicile as in the case in Anglo-Saxon and most Latin-American countries.

In countries of the first group a person without nationality, in theory, possesses no personal status whatsoever. In practice, however, stateless persons are sometimes assimilated in this respect to nationals of the country of residence; in other instances the law of the former home country is applicable. In order to avoid the difficulties arising from existing legislation, the Convention provides that the personal status of a refugee is to be governed by the law of the country of his domicile (permanent residence) or, if he has no domicile, by the law of the country of his residence.

Despite its simplicity, this rule cannot always be observed. Refugees are often coming into the country of refuge married, they may have been adopted by others or adopted somebody else, or they may have acquired inheritance or other rights. Their status, their family relations or their rights were established, or acquired, on the basis of a law other than the one which operates in the place of their domicile or residence at a given moment. This status or rights must be respected. The Convention prescribes, therefore, that rights previously acquired by a refugee and dependent on his personal status, shall be respected by the state of his domicile or residence. This rule has two exceptions. One refers to the "public order" of the state of refuge. This "public order" may, as in the case of marital relations, be one which does not recognize rights acquired in certain states. Cases in point in this instance are polygamy, divorce on the basis of a unilateral application, and similar instances. If the right in question would not be recognized even if the refugee would not be a "refugee," it has no validity in the state of his refuge. The second is the necessity to fulfil certain formalities which are required by the law of the accepting state. Thus, the law may require that adoptions made abroad must be confirmed by a local court, or that marriages contracted abroad must be registered with the domestic authorities. The difference between the ^{two} situations is that in the first instance they are void. In the case of bigamy for example, the second marriage is void, and children born of the second wife would be considered to be born out of wedlock, while in the second case the rights acquired would continue to exist upon the fulfilment of the legal requirements concerned.

(b) Delivery of documents and certifications

The personal status and the specific status of a refugee, as of any other person, must be proven by documents. Birth, marriage and death certificates, divorce papers, adoption documents, school certificates, proof of exercise of a profession belong to the category of documents which are usually issued by the authorities of

the state where the event occurred. When a refugee does not have such proofs with him, he cannot, as a rule, obtain them from the competent authorities because these authorities regard the refugee as a traitor of his country or as undesired element. The situation of a refugee without documents is especially difficult in a country in which affidavits are not accepted instead of official papers. Often, although documents exist, they must be confirmed, their authenticity must be established or their conformity with the laws in the country of their issuance must be certified. This is ordinarily done by diplomatic or consular services.

In order to provide the refugees with substitutes for such documents, the Convention prescribes that, if the refugee cannot have recourse to an authority which is ordinarily competent to issue a document (or to provide the certification) establishing a right to be exercised by the refugee, the Contracting State in which he resides shall arrange that the documents or certifications be either delivered, or asked to be delivered by its own authorities or by an international authority, such as the High Commissioner for Refugees for instance. Such documents or certifications will be considered as substitutes for documents or certifications which ordinarily would have been delivered by, or through, the national authorities of the alien and will be given credence in the absence of contrary evidence.

(c) Identity papers and travel documents

In his capacity as "refugee," the refugee is prohibited from obtaining documents certifying his identity, from the authorities either of his former homeland or the country of his former residence. On the other hand, almost all states require foreigners to possess such documents. To alleviate this difficulty the Contracting States undertake under the Convention to issue identity papers, documents certifying who the refugee is (identification cards for instance), to refugees residing in their respective territory who do not possess a valid travel document.

Identity papers are for internal use. For travel abroad special passports or

substitutes are required. In order to give refugees the possibility of traveling abroad, the Contracting States undertake to issue to refugees lawfully residing in their respective territory, special travel documents in accordance with the specimen attached to the Convention.

The obligation of the Contracting States to issue travel documents does not hold if there are compelling reasons of national security or public order against the issuance of such a document.

Since the refugee is a foreigner, the issue of a travel document does not entitle the holder to protection by the diplomatic or consular authorities of the issuing state, nor does it grant these authorities the right of protection.

Ordinarily the papers must be made valid for the largest possible number of countries and shall be valid for either one or two years, at the discretion of the issuing authority; the validity of the document may be extended or renewed or it may be exchanged for a new document by the same authority, as long as the refugee has not established a lawful residence elsewhere. The extension, for not over six months, may be made by diplomatic or consular authorities. If a refugee has given up his lawful residence in the country which issued the travel document and is unable to obtain a document in the country of his new residence, the former country shall give sympathetic consideration to a request for a new certificate or renewal or extension of the old document.

Under the Convention, the Contracting States are also authorized to issue travel documents to refugees who are either unlawfully or temporarily in their respective territory. The states are required to give sympathetic consideration to requests for the issue of such documents to refugees in their territory who are unable to obtain such a document from the country of their lawful residence.

The document issued by one state shall be recognized as valid in all other Contracting States, but no state is held to admit the refugee to their country on the basis of the travel document alone. If they wish to do so and a visa is required, it will be affixed to the document. On the other hand, the Contracting States

undertake to issue transit visas to the refugee's country of destination, except on such grounds as would justify such refusal to any other alien, non-refugee.

Refugees are granted a travel document may be required to comply with the requirements prescribed by the issuing state as regards the exit or return to the country. Similarly refugees are generally subject to existing laws and regulations governing the admission to, transit through, residence and establishment in, and departure from the territories of the Contracting States. However, the refugee must be readmitted to the country which issued the document at any time during the span of its validity. The state may, nonetheless, limit the period during which return is automatically permitted to no less than three months, provided exceptional cases obtain, or the stay abroad is authorized for a specific period only, and the limitation is made at the time the document is issued.

Since some of the refugees may possess travel documents issued under previous international agreements,¹¹⁾ the Convention prescribes that these documents shall have the same validity as if they were issued under the authority of the Convention.

(d) Unlawful entry or residence of a refugee in the territory of a Contracting State

Since a refugee is essentially a fugitive from persecution, he can only rarely escape from his native land or country of residence with a valid passport and entry visa to a country of refuge. Thus, in many instances, refugees in order to evade persecution must enter the territory of a state other than that of their former nationality or residence "illegally" and, in consequence, reside there illegally. Ordinarily, such illegal entry or presence is punished by imprisonment or fines. The authors of the Convention realized, however, that such

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See "History," above.

punishment cannot be imposed on bona fide refugees, and have stipulated that the Contracting States shall impose no penalties on refugees coming directly from the country of persecution, provided they present themselves without delay to the competent authorities and show good cause for their illegal entry into, or presence within, the country of refuge..

Very often illegal entrees are arrested or detained upon apprehension. The Convention prescribes, however, that illegal refugees shall not be restricted in their movement except to the extent necessary, and that such restrictions shall be applied until the status of the refugee has been regularized or until he obtains admission to another country.

It is not enough to prevent the imposition of penalties or unnecessary restrictions on the movement of a refugee, because this does not yet grant him asylum. Still, although the Contracting States do not undertake an obligation to grant asylum to every refugee who entered illegally their country if he shows good cause for his entrance, they do undertake to allow him a reasonable period of time, and all the necessary facilities to obtain admission into another country. Furthermore, they are bound neither to expel nor to return him to the frontiers of a territory where his life or freedom would be threatened on account of his race, religion, nationality, membership in a particular social group, or political opinion. Again there are two exceptions to this rule: such expulsion or return is permitted with respect to refugees concerning whom there are reasonable grounds to regard as a danger to the security of the country, or who have been convicted by a final judgment of a particularly serious crime and therefore constitute a danger to the community of the country.

It must be stressed that the obligations under the Convention refer to the refugees who are in a Contracting State, not to those who wish to enter it.

(e) Expulsion of refugees

A refugee lawfully in the territory of a Contracting State may not be expelled except on grounds of national security and public order. The aforementioned

prohibition of expulsion to a country where his life or freedom would be threatened and the exceptions from such prohibition, also apply to such expulsions.

Expulsion shall not occur, except in pursuance of a decision reached in accordance with due process of law. Ordinarily - except when there are compelling reasons to refuse it - the refugee shall be allowed to submit evidence to prove that he does not represent a threat to national security or public order, to be represented before the authority dealing with his case and to submit an appeal to a higher authority or to request reconsideration of his case, if a decision is reached against him.

If expulsion is decided upon, the Contracting States must allow the refugee a reasonable period of time to seek legal admission to another country, although during this time the state may apply such measures against the refugee as it deems necessary, including restricting his freedom of movement, imposing restrictions on his activities, etc.

(f) Transfer of assets

A refugee may have brought or sent certain assets or movable goods to a country in which export restrictions exist. If he settles in another country the state shall, in conformity with its laws and regulations relating to such transfers, permit the transfer of such assets to the refugee's residence. The provision of the Convention regarding assets other than those brought in is less liberal: in such instances the states are only required to give sympathetic consideration to applications.

(g) Naturalization

The Convention's provision on naturalization is rather vague. The Contracting parties do not undertake to naturalize refugees within a certain period, but only to facilitate as far as possible their naturalization and assimilation. The Contracting States undertake, however, to make every effort to expedite naturalization proceedings, and to reduce as far as possible the charges and costs of such proceedings.

C. The procedural provisions of the Convention

These provisions do not touch directly upon the rights granted under the Convention; they are, however, of great importance to the beneficiaries because the bounds and the scope of the validity of the Convention are dependent upon them. These provisions also circumscribe its territorial application, the manner of its implementation and amendment.

(a) How does the Convention become valid?

Under the Convention, there are two ways by which a state may adhere to it. One is, in substance, destined for the powers who participated in the Conference; the other, in principle, applies to all other nations. Under the first procedure involving signature plus ratification, the representative of the state signs the text adopted by the Conference and thereafter the organs of this state ratify it by giving their sanction, in accordance with its constitutional provisions. Under the second procedure of accession, a state complies with its constitutional requirements and thereafter notifies the competent body who in this case is the Secretary General of the United Nations, of its desire to adhere to it. However, the Convention does not adhere strictly to this distinction. It prescribes that it may be signed by all states, Members of the United Nations (regardless of whether they participated in the Conference or not), by states non-members of the United Nations which were invited to participate in the Conference and by such states as the General Assembly will invite to sign it. The period allotted for signature was from July 28 to July 31, 1951, in Geneva and is now from September 17, 1951, to December 31, 1952, at the headquarters of the United Nations. Beginning with July 28, 1951, any state enumerated above (whether it took part in the Conference or not), may accede to the Convention as long as the Convention has not lost its validity. Instruments of ratification or accession must be deposited with the Secretary General of the United Nations.

The Convention is based on the assumption that it can produce benefits to refugees only if it is valid within a sufficiently large number of states. It therefore prescribes that it comes into force only when at least six states have formally adhered to it. While the Convention requires an initial membership of six, there is no minimum number of members thereafter, and it would still be valid among the parties thereto even if, at a later date, the total number of parties, due to denunciation should become less than six. This is justified by the circumstance that any state which does not want to continue to adhere to it may denounce it and all such denunciations are promptly reported to all parties.

(b) When does the Convention come into force and when does it lose its validity

Following the usual practice, the Convention stipulates that it comes into force not immediately on the day of the deposit of the sixth instrument of ratification or accession but only on the 90th day following that date. The reason for this is that states which expressed their formal willingness to become a party to the Convention must be notified of the action by other states and granted some time to take measures which are necessary to comply with its requirements. The above date of 90 days is valid for all the first six adherents - or if more than one state deposited its instrument on the same date after the fifth state has done so - for all states which deposited their instruments at that date. For any state which formally adheres to the Convention after the deposit of the sixth, or more instrument, it comes into force on the ninetieth day following its deposit.

The Convention was not concluded for a specific time, because it is not known how long there will be refugees requiring protection. However, this does not mean that a state adhering to it is bound forever: every Contracting State may denounce it, -i.e., announce that it does not want to be a party thereto anymore, at any time by notification to the Secretary General of the United Nations. The denunciation takes effect one year from the day on which it was received by the Secretary General.

(c) The territorial validity of the Convention

The Convention proceeds on the assumption that a State adhering to it does so only for its metropolitan territory and that the extension to colonies or other dependencies must explicitly be stated. It requests the states to consider the possibility of extending validity to non-self-governing territories, subject whenever required, to the consent of the local governing authorities in the territory. Consequently the Convention provides that any state may at the time of signature, ratification or accession declare that it will also be applicable in all or in certain of its dependencies. Such a declaration may also be made at any time thereafter. In such instance it becomes valid on the 90th day after such notification was received by the Secretary General of the United Nations. On the other hand, a state which declared the extension of the Convention to any dependent territory may, at any time thereafter, withdraw this extension by notification to the Secretary General. The withdrawal becomes effective one year after the respective notification has been received by him.

(d) Validity of the Convention in federal states

Not all states are based on the same principles: some are unitarian, i.e., there is only one sovereign which is the central government, and the territorial units derive their local power from this central authority. Others are federal states in which the sovereignty is divided between the central government and the component parts (the states in the United States, the provinces in Canada or Austria, the cantons in Switzerland, the Länder in Germany.) In some of the federal states, at least some of the matters with which the Convention deals (f. inst, labor legislation, exercise of profession, admission to courts, public relief) are within the authority of the component parts of the federal state. In some instances, the federal state, while it has the exclusive right to conclude international conventions, is not authorized to impose upon the component parts without their explicit consent the obligations resulting therefrom. In order not

to interfere with this division of power and not to preclude federal states from undertaking at least a portion of the obligation incumbent upon a party to the Convention, the Convention contains specific rules for federal states.

The provisions of the Convention are in this respect divided into two groups. The first group comprises such of its articles that come within the legislative power of the given federal legislature. In this regard a federal state undertakes the same obligations as a unitarian state. The second group refers to such articles of the Convention which - in a given state - are within the legislative authority of the component parts. In this respect there are, generally, two alternatives: either the component parts are obliged, under valid law, to enact legislation required to implement the provisions of a treaty concluded by the federal government (the cantons in Switzerland, f.inst) or they are free to act as they please (the provinces in Canada.) The first alternative does not present any problem. In the second instance the federal government undertakes to bring the respective provisions at the earliest possible moment to the attention of the component part with a favorable recommendation; it depends on the component parts to decide whether they are prepared to implement the Convention, within their sphere of authority or not.

(e) Scope of the application of the Convention

It is usual in international treaties that a state desiring to adhere to a convention may restrict its validity to certain of its provisions and undertake no obligation in regard to others. This is done by way of "reservations," i.e., statements excluding certain provisions of the convention from the obligation undertaken by the adherence thereto. The practice concerning the conditions under which reservations are accepted or may be made, and their effect is not uniform throughout the world.

Under the Convention, reservations are excluded as regards the definition of a "refugee," the rule of non-discrimination, freedom of religion, access to courts,

prohibition of expulsion of refugees to frontiers where their life or freedom may be endangered, and the procedural provisions, including the settlement of disputes. Every state which wishes to adhere to the Convention may, however, declare its unwillingness to fulfil any other obligation.

Reservations may be entered at the time of signature, ratification or accession. They may be withdrawn at any time by a communication addressed to the Secretary General of the United Nations.

The Convention took into account existing conditions when it was concluded. If they change, the contents of the Convention may be subject to amendment. To make such amendments possible, the Convention provides that every Contracting State may request a revision at any time. It has to notify the Secretary General of the United Nations. The decision relating to the advisability of amendments is left to the General Assembly of the United Nations, but amendments by the Contracting States, are not excluded.

(f) Authority of the United Nations High Commissioner for Refugees as regards the Convention

The parties to the Convention undertake to cooperate with either the High Commissioner or with any other United Nations agency which may succeed him in the exercise of the functions assigned to him under its terms of reference approved by the General Assembly relating to the protection of refugees and, in particular, to facilitate his duty to supervise the application of the Convention.

Under the relevant resolution of the General Assembly, the High Commissioner has to provide for the protection of refugees falling under his competence by promoting i.e. admission of refugees to territories of states; by endeavoring to obtain permission for the transfer of their assets; by obtaining information on refugees; by promoting through special agreements with governments, measures calculated to improve the position of refugees and by supervising the execution of conventions.

In order to facilitate the task of the High Commissioner, the parties to the Convention undertake to make reports to the competent organs of the United Nations, and to supply the High Commissioner with information and statistical data concerning the position of refugees, the implementation of the Convention and the legislative acts relating to refugees.

(g) Disputes under the Convention

Every party to an international treaty is authorized to require that the other parties fulfil their obligations thereunder.. If one party is dissatisfied with the behavior of any other party, i.e., the way in which it interprets or implements the Convention or parts of it, it may ask the other state to alleviate the situation. Should the party refuse, a dispute arises which requires settlement.

The Convention leaves it to the parties to settle their disputes by whatever peaceful means they desire, such as by mediation or arbitration. If the dispute cannot be settled in another way, any party to the dispute may appeal to the International Court of Justice for a decision; the consent of the other party is not required.