

accession, reservation, entry into force, denunciation, registration, etc.³⁵

PRESENT STATELESSNESS

During the fifth Session, the International Law Commission requested the Special Rapporteur (Mr. R. Córdova), to study the problem of present statelessness, and to prepare a report on the subject for the consideration of the Commission at its sixth Session.

The relevant Report entitled "Third Report on the Elimination or Reduction of Statelessness" (U.N. Doc., A/CN.4/81), contains four draft multilateral conventions, namely, a Protocol for the Elimination of Present Statelessness attached to the Draft Convention on the Elimination of Future Statelessness; a Protocol for the Reduction of Present Statelessness attached to the Draft Convention on the Reduction of Future Statelessness; an Alternative Convention on the Elimination of Present Statelessness and an Alternative Convention on the Reduction of Present Statelessness. In formulating its proposals relating to present statelessness, the Commission considered that present statelessness could only be reduced if stateless persons acquired a nationality which should normally be that of the country of residence³⁶. As the acquisition of nationality is in all countries governed by certain statutory provisions, the Commission was of the opinion that for the purpose of improving the condition of statelessness, it would be desirable that the stateless person should be granted the special status of "protected person" in his country of residence during the period preceding the acquisition of a nationality. Stateless persons

35. It may be observed that the most common observation made by governments was that some of the provisions of the Draft Conventions conflicted with their laws. The Commission took the view that if the governments adopted the principle of the elimination, or at least the reduction, of statelessness in the future, they should think of introducing the necessary amendments in their municipal laws. Further, several governments in their comments stated that they were in favour of only the Draft Convention on the Reduction of Future Statelessness, some States were not in favour of either convention, and some other States stated that they had no objection to the principles underlying both the conventions. The International Law Commission took the view that it should, in the light of the comments, submit both the draft conventions to the General Assembly of the United Nations, which could consider the question whether preference should be given to the Draft Convention on the Elimination of Future Statelessness, or to the Draft Convention on the Reduction of Future Statelessness.

49, A.J.I.L., 1955, Supplement, pp. 3-4.

36. 49, A.J.I.L., 1955, Supplement, p. 13.

possessing this status would be permitted to enjoy all civil rights except political rights on par with the nationals, and would also be entitled to the right of diplomatic protection of the government of the country of residence. The protecting State, for its part, would have the right to impose on such "protected persons" the same obligations as it normally would impose on its nationals. Further, the Special Rapporteur proposed that *de facto* stateless persons should be assimilated to *de jure* stateless persons as regards the right to the status of "protected persons" and the right to naturalization, provided that they renounced the ineffective nationality they possessed. This proposal was not accepted by the Commission. In view of the immense difficulties of a non-legal character besetting the problem of present statelessness, the Commission considered that the proposals adopted, though worded in the form of articles, should merely be regarded as suggestions of the Commission which the governments might take into account if they wished to seek a solution for the problem of present statelessness. The "suggestions" adopted by the Commission contain seven articles. According to Article VI "A person to whom the status of 'protected person' is granted by a State shall not lose the benefit of the said status unless:

- (a) He acquires the nationality of that or of another State;
- (b) Another State Party hereto grants him the status of 'protected person' in conformity with Article I;
- (c) He resides abroad for five years without the authorisation of the protecting State."

Under Paragraph (1) of Article I, "A State in whose territory a stateless person is resident shall, on his application, grant him the legal status of 'protected person'."³⁷

37. 49, A.J.I.L., 1955, Supplement, pp. 15-16.

DRAFTS OF AGREEMENT ON
DUAL OR MULTIPLE NATIONALITY
PRESENTED BY THE DELEGATION OF
THE UNITED ARAB REPUBLIC AT THE
SECOND, FOURTH AND FIFTH SESSIONS
OF THE COMMITTEE

*Draft Agreement on Dual or Multiple Nationality
presented by the Delegation of the United Arab Republic
at the Second Session of the Committee*

CHAPTER I

DEFINITIONS

Article 1

- (a) This Agreement shall be called the Asian-African Agreement on Multiple Nationality.
- (b) Majority age is 21 years (Gregorian Calendar).
- (c) Marriage is the true marriage in accordance with the matrimonial laws.
- (d) "Active Nationality" is the nationality actually exercised by the person and which circumstances show that he prefers.

CHAPTER II

NATIONALITY OF WIVES

Article 2

If a woman who is a national of one of the contracting parties marries a national of another contracting party, this marriage shall have no effect on the nationality of the two. Nevertheless, each of them may opt for the nationality of the other. If he or she acquires such nationality, he or she loses his or her original nationality on the date of marriage by the force of law. The application for the new nationality should be filed to the competent authorities in the country concerned.

Article 3

At the termination of marriage each of the spouses has the right to recover his or her nationality before marriage. He or she files an application to this effect on condition that he or she should live in the country of origin. In this case he or she loses his or her nationality acquired after marriage by the force of law.

CHAPTER III

CHANGE OF NATIONALITY THROUGH NATURALISATION

Article 4

The application by a national of any of the contracting countries for naturalisation as a national of any of the other countries should not be accepted except with the approval of his government. He loses his previous nationality on his acquisition of the new nationality.

CHAPTER IV

NATIONALITY OF MINORS

Article 5

A minor follows his father's nationality. Nevertheless, he has the right within one year from attaining the majority age to restore original nationality if his father acquired another nationality after his birth.

Article 6

Any person born to a national of any of the contracting States in another State has the right to opt for the nationality of this State within one year from the date of his attaining the majority age on condition that the two countries should agree to this option. In case of acquiring this nationality he should lose his former nationality.

Article 7

In case of true adoption in accordance with the two laws of the adopting and adopted persons, the minor shall follow the nationality of the person who adopted him.

CHAPTER V

TIME RULES

Article 8

Any one having more than one nationality of the contracting parties shall opt for one of them within two years from the date of the acceptance of this Agreement. If the two years passed without his taking the option, he should be considered to have opted for the more recent nationality.

If he acquired more than one nationality at the same time, he would be considered to have chosen his father's nationality on *jus sanguinis*. If the father was unknown or was of unknown nationality, then he should be considered to have the nationality which circumstances show that he prefers to any other.

When this Treaty comes into force, the minor may within the year following the attainment of his majority age opt for nationality. But before this, he shall be considered to have opted the nationality chosen by his father. If the son is illegitimate or if his father's nationality is unknown or if his father dies before his taking the option, he should be considered as having chosen the nationality chosen by his mother. This nationality shall also be approved, if he did not opt within the year referred to.

CHAPTER VI

GENERAL AND FINAL PROVISIONS

Article 9

Every decision taken by the government of any of the contracting parties conferring its nationality to a national of any of these countries should be communicated within six months to the government concerned. The person should be considered to have lost the first nationality from the moment he acquired the new nationality.

Article 10

This Agreement shall be ratified as soon as possible by the contracting countries in accordance with their constitutional

systems. The ratification instruments shall be deposited with . . . which shall draw up a procès-verbal concerning the ratification instruments of each country and communicate it to the other contracting parties.

This Agreement shall come into force two months after the depositing of the ratification instruments of three countries and shall apply to each of the other countries two months after depositing its ratification instruments or its adhesion.

Article 11

Other African and Asian countries which have not signed this Agreement may adhere to it upon a notification from them to . . . , which shall inform the other signatory countries of such adhesion.

Article 12

Every country which is bound by the provisions of this Agreement may withdraw from it one year after its notification of withdrawal to . . . , which shall send this notification to the other countries bound by the Agreement.

Article 13

Any difference over the interpretation or implementation of this Agreement shall be settled by negotiations between the countries concerned.

Draft Agreement on Dual or Multiple Nationality presented by the Delegation of the United Arab Republic at the Fourth Session of the Committee

I NATIONALITY OF WIVES

Article 1

If a woman who is a national of one of the contracting States marries a national of another contracting State, or if a husband acquires a nationality other than that he had at the date of marriage, the wife's nationality shall not be affected.

Nevertheless, the wife may notify the competent authorities of the State whose nationality her husband holds, of her wish to acquire that nationality—and if a period of one year passes from the date of notification, without any objection from the above-mentioned authorities, the wife shall acquire her husband's nationality and shall *ipso facto* lose the nationality she had at the date of marriage.

Article 2

At the termination of marriage, the wife who had acquired her husband's nationality according to the preceding Article, may recover the nationality she had at the time of marriage or at the time when her husband acquired another nationality as the case may be, if she notifies the competent authorities of the State whose nationality she wishes to recover, of that wish and the said authorities do not object within a year of the date of notification provided she had taken permanent residence in that state since the termination of marriage, unless these authorities exempt her from that condition.

II NATIONALITY OF MINORS

Article 3

A minor follows his father's nationality. Nevertheless, if after the minor's birth, his father acquires another nationality, the

minor may recover the nationality his father had at the time of birth if, within one year of attaining the age of majority, he notifies the competent authorities of the State, whose nationality he wishes to recover, of that wish. In this case he shall *ipso facto* lose the other nationality.

Article 4

Every person born to a national of one of the contracting States in another State and had his permanent residence in it, has the right to notify the competent authorities of both States of his wish to acquire the nationality of the State of birth, within one year of the date of his attaining the age of majority. If the authorities of either of the States do not object within one year of the date of notification, he shall acquire the nationality of the State in which he was born and shall *ipso facto* lose his original nationality.

Article 5

In case of valid adoption, the adopted minor shall follow his adopter's nationality.

Article 6

For the purpose of this Agreement, the age of majority shall be determined according to the law of the State whose nationality is to be acquired.

III GENERAL AND TEMPORARY PROVISIONS

Article 7

Every person holding, at the date of enforcement of this Agreement, more than one nationality, shall have the right to choose one of them within two years of that date. If this period elapses without choosing, he shall be considered to have chosen his most recent nationality. If those nationalities were acquired at the same time, he shall be considered to have chosen the nationality of the State in which he has his habitual place of residence. He shall *ipso facto* lose the other nationality.

Article 8

If a national of any of the contracting States acquires the nationality of another contracting State, the State whose nationality is acquired should notify the other of this acquirement within six months.

Article 9

All differences concerning the interpretation of this Agreement shall be settled through diplomatic channels.