

- (ii) The Delegation of Iraq was of the view that the inclusion of the words "or in activities inconsistent with or against the principles and purposes of the United Nations" was inappropriate as in this Article what was being dealt with was the right and obligation of the refugee and not that of the State.

Article VIII

Expulsion and deportation

1. Save in the national or public interest or on the ground of violation of the conditions of asylum, the State shall not expel a refugee.

2. Before expelling a refugee, the State shall allow him a reasonable period within which to seek admission into another State. The State shall, however, have the right to apply during the period such internal measures as it may deem necessary.

3. A refugee shall not be deported or returned to a State or Country where his life or liberty would be threatened for reasons of race, colour, religion, political belief or membership of a particular social group.

NOTES

- (i) The Delegations of Ceylon, Ghana and Japan did not accept the text of paragraph 1. In the view of these Delegations the text of this paragraph should read as follows :

A State shall not expel or deport a refugee save on grounds of national security or public order, or a violation of any of the vital or fundamental conditions of asylum".

- (ii) The Delegations of Ceylon and Ghana were of the view that in paragraph 2 the words "as generally applicable to aliens under such circumstances" should be added at the end of the paragraph after the word "necessary".

Article IX

Nothing in these articles shall be deemed to impair any higher rights and benefits granted or which may hereafter be granted by a State to refugees.

APPENDIX
PRINCIPLES CONCERNING ADMISSION
AND TREATMENT OF ALIENS

(Adopted by the Committee at its Fourth Session)

Article 1

Definition of the term Alien

An alien is a person who is not a citizen or national of the State concerned.

Note : In a Commonwealth country the status of the nationals of other Commonwealth countries shall be governed by the provisions of its laws, regulations and orders.

Article 2

(1) The admission of aliens into a State shall be at the discretion of that State.

(2) A State may—

- (i) Prescribe conditions for entry of aliens into its territory;
- (ii) except in special circumstances, refuse admission into its territory of aliens who do not possess travel documents to its satisfaction;
- (iii) make a distinction between aliens seeking admission for temporary sojourn and aliens seeking admission for permanent residence in its territory; and
- (iv) restrict or prohibit temporarily the entry into its territory of all or any class of aliens in its national or public interest.

Note : (1) The Delegation of Japan is of the view that in sub-clause (iv) of Clause (2) of this Article the words “armed conflicts or national emergency” should be substituted in place of the words “national or public interest”.

(2) The Delegation of Indonesia stated that his Delegation preferred Clause (2) of Article 2 as adopted by the Committee at its Third Session in Colombo.

Article 3

A State shall not refuse to an alien entry into its territory on the ground only of his race, religion, sex or colour.

Article 4

Admission into the territory of a State may be refused to an alien—

- (i) who is in a condition of vagabondage, beggary or vagrancy;
- (ii) who is of unsound mind or is mentally defective;
- (iii) who is suffering from a loathsome, incurable or contagious disease of a kind likely to be prejudicial to public health;
- (iv) who is a stowaway, a habitual narcotic user, an unlawful dealer in opium or narcotics, a prostitute, a procurer or person living on the earnings of prostitution;
- (v) who is an indigent person or person who has no adequate means of supporting himself or has no sufficient guarantee to support him at the place of his destination;
- (vi) who is reasonably suspected to have committed or is being tried or has been prosecuted for serious infractions of law abroad;

- (vii) who is reasonably believed to have committed an extraditable offence abroad or is convicted or is convicted of such an offence abroad;
- (viii) who has been expelled or deported from another State; and
- (ix) whose entry or presence is likely to affect prejudicially its national or public interest.

Article 5

A State may admit an alien seeking entry into its territory for the purpose of transit, tourism or study, on the condition that he is forbidden from making his residence in its territory permanent.

Article 6

A State shall have the right to offer or provide asylum in its territory to political refugees or to political offenders on such conditions as the State may stipulate as being appropriate in the circumstances.

Article 7

(1) Subject to conditions imposed for his admission into the State, and subject also to the local laws, regulations and orders, an alien shall have the right :—

- (i) to move freely throughout the territory of the State; and
- (ii) to reside in any part of the territory of the State.

(2) The State may, however, require an alien to comply with provisions as to registration or reporting or otherwise so as to regulate or restrict the right of movement and residence as it may consider appropriate in any special circumstances or in the national or public interest.

Note : The Delegation of Indonesia expressed preference for the text adopted at the Colombo Session in Clause (1) of this Article.

Article 8

Subject to local laws, regulations and orders, an alien shall have the right :—

- (i) to freedom from arbitrary arrest;
- (ii) to freedom to profess and practise his own religion;
- (iii) to have protection of the executive and police authorities of the State;
- (iv) to have access to the courts of law; and
- (v) to have legal assistance.

Note : (a) The Delegation of Ceylon was of the view that in Clause (ii) the expression "to freedom of religious belief and practice" should be substituted.

- (b) The Delegations of Burma and Indonesia suggested retention of Clause (2) of the Draft adopted at the Colombo Session which provides that "Aliens shall enjoy on a basis of equality with nationals protection of the local laws."

The Delegation of Iraq and Japan had no objection to the retention of this clause.

Article 9

A State may prohibit or regulate professional or business activities or any other employment of aliens within its territory.

Note : The Delegation of Iraq was of the view that the words "shall be free to" should be inserted in place of the word "may". The Delegation of Pakistan wished to keep its position open.

Article 10

An alien shall not be entitled to any political rights, including the right of suffrage, nor shall he be entitled to engage himself in political activities, except as otherwise provided by local laws, regulations and orders.

Article 11

Subject to local laws, regulations, and orders and subject also to the conditions imposed for his admission into the State, an alien shall have the right to acquire, hold and dispose of property.

Note : The Delegation of Indonesia, whilst accepting the provisions of this Article, stated that according to the new laws of Indonesia aliens cannot acquire title to property though they can hold property.

Article 12

(1) The State shall, however, have the right to acquire, expropriate or nationalise the property of an alien. Compensation shall be paid for such acquisition, expropriation or nationalisation in accordance with local laws, regulations and orders.

(2) The State shall also have the right to dispose of or otherwise lawfully deal with the property of an alien under orders of expulsion or deportation.

Note : (i) The Delegation of Japan did not accept the provisions of this Article. According to its view "just compensation" should be paid for all acquisition, nationalization or expropriation and not "compensation in accordance with local laws, regulations and orders." The Delegation could not accept the provisions of Clause (2) as such a provision would be contrary to the laws of Japan.

(ii) The Delegation of Indonesia reserved its position on Clause (2) of this Article.

(iii) The Delegation of Pakistan stated that though it accepted the provisions of this Article, the view of the Delegation was that acquisition, nationalisation or expropriation should be in the national interest or for a public purpose.

Article 13

(1) An alien should be liable to payment of taxes and duties in accordance with the laws and regulations of the State.

(2) An alien shall not be subjected to forced loans which are unjust or discriminatory.

Note : (i) Clause (1) of this Article was accepted by all Delegations except that of Japan. The Delegation of Japan wished a proviso to that clause to be inserted to read as follows :

"Provided that the State shall not discriminate between aliens and nationals in levying the taxes and duties."

(ii) Clause (2) was accepted by the Delegations of Burma, India, Indonesia and Iraq.

The Delegation of Ceylon wished the words "or discriminatory" to be deleted. The Delegate of Japan wished the clause to be drafted as "An alien shall not be subject to forced loans." The Delegation of Pakistan suggested the following draft : An alien shall not be subjected to loans in violation of the laws, regulations and orders applicable to him." The Delegation of the United Arab Republic was of the view that the draft should be as follows : "An alien shall not be subjected to forced loans."

Article 14

(1) Aliens may be required to perform police, fire-brigade or militia duty for the protection of life and property in cases of emergency or imminent need.

(2) Aliens shall not be compelled to enlist themselves in the armed forces of the State.

(3) Aliens may, however, voluntarily enlist themselves in the armed forces of the State with the express consent of their home State which may be withdrawn at any time.

(4) Aliens may voluntarily enlist themselves in the police or fire-brigade service on the same conditions as nationals.

Note : The Delegation of Indonesia reserved its position on the whole Article.

The Delegation of Iraq reserved its position on Clause (3) of this Article.

The Delegation of Japan wished Clause (3) of this Article to be deleted.

Article 15

(1) A State shall have the right in accordance with its local laws, regulations and orders to impose such restrictions as it may deem necessary on an alien leaving its territory.

(2) Such restrictions on an alien leaving the State may include any exit visa or tax clearance certificate to be procured by the alien from the authorities concerned.

(3) Subject to the local laws, regulations and orders a State shall permit an alien leaving its territory to take his personal effects with him.

Note : (i) The Delegate of Pakistan reserved his position on Clause (3).

(ii) The Delegates of Ceylon and United Arab Republic wished the following clause to be retained in this Article :

“An Alien who has fulfilled all his local obligations in the State of residence, shall not be prevented from departing from the State of residence.”

Article 16

(1) A State shall have the right to order expulsion or deportation of an undesirable alien in accordance with its local laws, regulations and orders.

(2) The State shall, unless the circumstances warrant otherwise, allow an alien under orders of expulsion or deportation reasonable time to wind up his personal and other affairs.

(3) If an alien under orders of expulsion or deportation fails to leave the State within the time allowed, or, after leaving the State, returns to the state without its permission, he may be expelled or deported by force, besides being subjected to arrest, detention and punishment in accordance with local laws, regulations and orders.

Article 17

A State shall not refuse to receive its nationals expelled or deported from the territory of another State.

Note : The Delegation of Pakistan suggested the addition of the word “normally” before the word “refuse.”

Article 18

Where the provisions of a treaty or convention between any of the signatory States conflict with the principles set forth herein, the provisions of such treaty or convention shall prevail as between those States.

APPENDICES

I
CONVENTION RELATING TO THE STATUS
OF REFUGEES

(Geneva, July 28, 1951)

Preamble

The High Contracting Parties

CONSIDERING that the Charter of the United Nations and the Universal Declaration of Human Rights approved on December 10, 1948, by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

CONSIDERING that the United Nations has on various occasions, manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of these fundamental rights and freedoms,

CONSIDERING that it is desirable to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope of and the protection accorded by such instruments by means of a new agreement,

CONSIDERING that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognised the international scope and nature cannot therefor be achieved without international co-operation,

EXPRESSING the wish that all States, recognising the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States,

NOTING that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and

recognising that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner,

HAVE AGREED as follows :—

Chapter I

GENERAL PROVISIONS

Article 1

Definition of the Term "Refugee"

A. For the purposes of the present Convention, the term "refugee" shall apply to any person who :

(1) Has been considered a refugee under the Arrangements of May 12, 1926, and June 30, 1928, or under the Convention of October 28, 1933, and February 10, 1938, the Protocol of September 14, 1939, or the Constitution of the International Refugee Organisation :

Decisions of non-eligibility taken by the International Refugee Organisation during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this action ;

(2) As a result of events occurring before January 1, 1951, and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country ; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality, if without any valid reason based on well-

founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

(B). 1 For the purpose of this Convention, the words "events occurring before January 1, 1951, in article 1 section A, shall be understood to mean either

- (a) "events occurring in Europe before January 1, 1951 ;
or
- (b) "events occurring in Europe or elsewhere before January 1, 1951" ;

and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.

(2) Any Contracting State which has adopted alternative (a) may at any time extend its obligations by adopting alternative (b) by means of a notification addressed to the Secretary-General of the United Nations.

C. This Convention shall cease to apply to any person falling under the terms of section A if ;

(1) He has voluntarily re-availed himself of the protection of the country of his nationality ; or

(2) Having lost his nationality, he has voluntarily reacquired it ; or

(3) He has acquired a new nationality ; and enjoys the protection of the country of his new nationality ; or

(4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution ; or

(5) He can no longer, because the circumstances in connection with which he has been recognised as a refugee have

ceased to exist, continues to refuse to avail himself of the protection of the country of his nationality ;

Provided that this paragraph shall not apply to a refugee falling under Section A (1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality.

(6) Being a person who has no nationality he is, because of the circumstances in connection with which he has been recognised as a refugee have ceased to exist, able to return to the country of his former habitual residence ;

Provided that this paragraph shall not apply to a refugee falling under section A (1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

D. This convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugee protection or assistance.

When such protection or assistance has ceased for any reasons, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.

E. This Convention shall not apply to a person who is recognised by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of the country.

F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that :

- (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes ;
- (b) he has committed a serious non-political crime outside the country of refugee prior to his admission to that country as a refugee ;
- (c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

Article 2

General Obligations

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

Article 3

Non-discrimination

The contracting States shall accord to refugees within the territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practise their religion and freedom as regards the religious education of their children.

Article 5

Rights granted apart from this Convention

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

Article 6

The term "in the same circumstances"

For the purpose of this Convention, the term "in the same circumstances" implies that any requirements (including

requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

Article 7

Exemption from reciprocity

1. Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.

2. After a period of three years' residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.

3. Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.

4. The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to refugees who do not fulfil the conditions provided for in paragraphs 2 and 3.

5. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

Article 8

Exemption from exceptional measures

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a

foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality.

Article 9

Provisional measures

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.

Article 10

Continuity of residence

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.

2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has, prior to the date of entry into force of this Convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

Article 11

Refugee seamen

In the case of refugees regularly serving as crew members on board a ship flying the flag of Contracting State, that State shall give sympathetic consideration to their establishment on

its territory and the issue of travel documents to them or their temporary admission to its territory particularly with a view to facilitating their establishment in another country.

CHAPTER II JURIDICAL STATUS

Article 12

Personal status

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.

2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognised by the law of that State had he not become a refugee.

Article 13

Movable and immovable property

The Contracting States shall accord to a refugee treatment as favourable as possible and in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 14

Artistic rights and industrial property

In respect of the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic and scientific works, a refugee

shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

Article 15

Rights of association

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

Article 16

Access to courts

1. A refugee shall have free access to the courts of law in the territory of all Contracting States.

2. A refugee shall enjoy in the Contracting State in which he has habitual residence the same treatment as a national in matters pertaining to access to the courts, including legal assistance and exemption from *cautio judicatum solvi*.

3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.

CAPTER III GAINFUL EMPLOYMENT

Article 17

Wage-earning employment

1. The Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment