

GENERAL
ASSEMBLY

SEVENTH SESSION

Official Records



THIRD COMMITTEE, 420th

MEETING

Tuesday, 21 October 1952, at 3 p.m.

Headquarters, New York

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Draft protocol relating to the status of stateless persons (A/1913, A/2169)... 7

*Chairman: Mr. S. Amjad ALI (Pakistan).***Draft protocol relating to the status of stateless persons (A/1913, A/2169)**

[Item 28]*

GENERAL DEBATE

1. The CHAIRMAN explained that the text of the draft protocol (A/1913, annex) on the status of stateless persons had been drawn up by an *ad hoc* committee of the Economic and Social Council which in 1949 had also drafted the first text of the Convention relating to the Status of Refugees. The protocol had been intended simply to extend to stateless persons who were not refugees some of the protection that refugees would enjoy under the convention. The Conference of Plenipotentiaries which had subsequently revised and adopted the Convention relating to the Status of Refugees,¹ had not made the corresponding revision of the draft protocol and had referred it back to the appropriate United Nations organs for further study.

2. In his note (A/1913) the Secretary-General had suggested that the Third Committee might wish to consider the desirability of referring the draft protocol to an appropriate organ or to an *ad hoc* committee for redrafting in the light of the text of the Convention as adopted. Perhaps the best way of dealing with it would be to hold a brief general debate and, if the Committee found it desirable to proceed with drafting, to ask a small drafting committee to undertake that task.

3. Mr. HESSEL (France) said that the Third Committee was in duty bound to affirm the principle that it opposed statelessness as such and the treatment of stateless persons as a category apart, and that everything possible should be done to combat any such ideas. Three practical steps could be taken in connexion with the problem. First, an attempt could be made to per-

suade States to refrain from creating statelessness by withdrawing nationality from their nationals. Secondly, an attempt could be made to persuade States to assimilate stateless persons by conferring nationality upon them. Those two steps were the most important but would entail a great many legal difficulties. The draft protocol did not cover them; they were being dealt with by the International Law Commission. The third possible step would be to apply to the stateless persons on the territory of a given State the most favourable possible status and provisions and particularly to refrain from placing them in a category apart from the other inhabitants. That was the aim of the draft protocol, which did not therefore fall within the purview of the International Law Commission. Thus, there was no need to await the completion of that Commission's work before taking action.

4. The French delegation had received precise instructions with regard to the drafting of the protocol and was therefore ready to discuss the text itself. One of the essential parts of the procedure of drafting international conventions had not yet however been carried out, namely the submission of the draft text to the governments for their comments. Many delegations might not have been as fully instructed as the French delegation had been. As the Convention relating to the Status of Refugees had not yet received the six ratifications necessary for its entry into force and was thus unlikely to come into force for some time, there would be little danger in deferring the completion of the draft protocol. In the meantime, the Committee could reaffirm the principle involved.

5. Mr. NAJAR (Israel) said that the exchange of views on the draft protocol had not taken place, as had been expected, between the sixth and seventh sessions of the General Assembly and the Convention relating to the Status of Refugees had not been ratified by any State.

6. The draft protocol should be regarded as complementary to the Convention, extending to stateless persons who were not refugees some of the provisions for

* Indicates the item number on the agenda of the General Assembly.

¹ See *United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons: Final Act and Convention relating to the Status of Refugees* (Palais des Nations, Geneva, 1951) (A/CONF.2/108).

the protection of refugees. The Committee should accordingly emphasize its view that States should do their utmost to ratify the Convention relating to the Status of Refugees as soon as possible, since any debate held on the draft protocol before the Convention was ratified would inevitably be somewhat academic.

7. Mrs. BERGER (Canada) briefly summarized the history of the draft protocol relating to the status of stateless persons. An *ad hoc* committee set up by the Economic and Social Council had prepared a draft convention on the status of refugees and the draft protocol, which had been considered by a conference of plenipotentiaries. The conference had revised the draft convention and opened it for signature, but had referred the draft protocol back to the United Nations for further study. At the same time, the problem of the incidence and elimination of statelessness had been referred to the International Law Commission, which had already formulated some general principles on the subject. The outcome of the Commission's work would certainly have some bearing on the questions covered by the draft protocol.

8. Moreover, the Convention relating to the Status of Refugees had not yet been ratified by any government. In view of the fact that the draft protocol was an adjunct of the Convention and that the International Law Commission was still studying the problem of statelessness as a whole, the Canadian delegation considered that little useful purpose could be served by discussing the matter in the Third Committee or referring it to an *ad hoc* body or to governments until the Convention was accepted on a wider basis and until the International Law Commission completed its work.

9. Mrs. EMMET (United Kingdom) said that the question of the treatment to be given to stateless persons and of the removal of the various disabilities from which they suffered was essentially a humanitarian one. Furthermore, as all delegations were agreed upon the fundamental principles involved, the question was unlikely to give rise to any political controversy.

10. The United Kingdom Government, anxious to give refugees and stateless persons the most favourable treatment possible, had signed the Convention relating to the Status of Refugees, which it intended to ratify in the near future, and had proposed at the Conference of Plenipotentiaries that all the benefits of that Convention should be extended to stateless persons. Other governments had not been prepared to accept that proposal; the United Kingdom delegation would, however, support whatever course of action seemed most likely to permit the widest possible extension of the benefits of the Convention relating to the Status of Refugees to stateless persons.

11. The drafting of a protocol on the status of stateless persons would be a relatively simple matter, as the protocol would merely extend to stateless persons some of the provisions of the Convention relating to the Status of Refugees. Before the drafting stage was reached, however, broad agreement would have to be attained on certain questions of principle. The first question was whether the time had come to prepare the protocol, in view of the fact that the Convention, which required six ratifications for its entry into force, had as yet received none. The second question was how States wished to define the term "stateless person" for

the purposes of the protocol, thus determining the scope of that instrument. The Convention excluded certain categories of persons who might be regarded as refugees; and States might wish to follow a similar policy in the case of the protocol. The third question was, of course, to which benefits of the Convention stateless persons as defined in the protocol should be admitted. There was also the question of the extent to which certain governments were prepared to modify their current practice of extending benefits such as those provided in the protocol only on the basis of reciprocity, and the intricate question of travel documents.

12. In the opinion of the United Kingdom delegation, it was essential to have the views of governments on such matters before proceeding further. If some delegations were not yet in a position to present the views of their government, it might be appropriate to obtain the information required by circulating a carefully drafted questionnaire to governments as a basis for further action.

13. Mr. TASWELL (Union of South Africa) wondered whether the drafting of a protocol on the status of stateless persons was really so urgent, since the matter had already been discussed for three years and the item had been bandied about between several United Nations organs. In the Union of South Africa the problem hardly existed. Every person admitted to the country was admitted on the merits of his case, regardless of nationality or lack of it. Once admitted, any immigrant had the right to apply for citizenship. If the immigrant wished to travel, the Government issued him special travel documents. The immigrant merely had to comply with the visa and residence regulations currently in force. That system was enforced by most other free and enlightened countries.

14. There seemed, accordingly, to be no pressing need for a special protocol on the subject. He wondered if there was any evidence of its urgency or whether any great number of communications had been received regarding it. The right of residence was more important to the stateless person than his actual status; if he had no native land to return to, he was in effect a refugee. If he was refused admission, he would be unlikely to be granted nationality. Furthermore, such countries as deprived their nationals of their nationality would be the least likely to sign the protocol.

15. The Committee's agenda was a heavy one, the documentation before it bulky, and small delegations were in danger of being overwhelmed by it. It might be as well to shelve some problems, if that could be done without undue hardship to the persons concerned. If, however, the Committee decided that the matter should be referred to another United Nations organ for further study, or, for that matter, to another plenipotentiary conference, the South African delegation would not object.

16. Mr. HESSEL (France) said that the preliminary debate had shown that there was no opposition to the protocol as such, but a feeling that it would be wisest not to adopt a text immediately.

17. The United Kingdom representative's detailed suggestions had been most constructive; it might be well to transmit a very exactly worded questionnaire based on them to the governments and see whether a

better text could be drafted in the light of the replies, a text which might thus obtain unanimous support.

18. In the meantime, the delegations most concerned should work out a joint draft resolution embodying the ideas expressed in the debate. It would probably not require much discussion, nor need it be very long.

19. Mr. BAROODY (Saudi Arabia) suggested that, in view of the fact that few delegations seemed to hold strong opinions on the subject, the representatives who had shown interest might form a sub-committee which would draw up a proposal on which a decision could be taken at the following meeting. Meanwhile, the Committee could continue its work.

20. The CHAIRMAN pointed out that the French and Saudi Arabian proposals were similar, but that the latter was more formal and did not involve the adjournment of the current meeting.

21. Mrs. BEGTRUP (Denmark) and Mr. HSIA (China) were in favour of the French proposal. The establishment of a sub-committee would only serve to delay a decision on the matter.

22. Mr. ALFONZO RAVARD (Venezuela) also supported the French proposal. Many delegations had refrained from speaking in order not to take up the Committee's time, and would approve a joint resolution which would stress the legal connexion between the draft protocol and the Convention relating to the Status of Refugees and point out that there were not many strong views on the question.

23. Mr. ORBAN (Belgium) considered that the object of the two proposals was the same and agreed that the Third Committee could not usefully deal with the substance of the question. Nevertheless, if a sub-committee was established, he hoped that it would draw up a resolution which would serve to improve the position of stateless persons.

24. In reply to a question by the CHAIRMAN, Mr. BAROODY (Saudi Arabia) stated that he would not insist on his proposal for the establishment of a sub-committee.

The meeting rose at 4 p.m.