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REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Question of international legal protection of the human
rights of individuals who are not citizens of the
country in which they live

Note by the Secretary-General

1. By its resolution 1980/29 of 2 May 1980, the Economic and Social Council decided to transmit to the General Assembly at its thirty-fifth session the text of the draft declaration on the human rights of individuals who are not citizens of the country in which they live, prepared by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and amended by the Sub-Commission (E/CN.4/1336), together with the comments on the text received from Member States in response to the request of the Council in its decision 1979/36 (E/CN.4/1354 and Add.1-6). The Council recommended that the Assembly should consider the adoption of a declaration on the human rights of individuals who are not citizens of the country in which they live, taking appropriate account of the above-mentioned comments.

2. The revised draft declaration, which was before the Commission on Human Rights at its thirty-sixth session (E/CN.4/1336) and the Economic and Social Council at its first regular session for 1980, is reproduced below. The attention of the General Assembly is drawn to documents E/CN.4/1354 and Add.1-6, containing the comments of Governments on the text of the revised draft declaration, which are being made available to the Assembly.

* A/35/150.

ANNEX

Revised draft declaration on the human rights of individuals
who are not citizens of the country in which they live

The General Assembly,

Considering that the Charter of the United Nations encourages the promotion of universal respect for and observance of the human rights and fundamental freedoms of all human beings,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Considering that the Universal Declaration of Human Rights proclaims further that everyone has the right to recognition everywhere as a person before the law and aims at ensuring that all are equal before the law and are entitled without any discrimination to equal protection of the law, and that all are entitled to equal protection against any discrimination in violation of the Declaration and against any incitement to such discrimination,

Being aware that the States parties to the International Covenants on Human Rights now in force undertake to guarantee that the rights enunciated in these covenants will be exercised without discrimination of any kind as to race, colour, sex, or language,

Conscious that, with improving communications and the development of peaceful contacts and friendly relations between countries, individuals increasingly reside and work in countries of which they are not citizens,

Reaffirming the principle of the sovereign equality of States,

Noting that the International Convention on the Elimination of All Forms of Racial Discrimination provides that States may make certain distinctions, exclusions, restrictions or preferences between their own citizens and the citizens of other countries,

Noting further that existing international instruments need to be supplemented in order to protect the human rights of individuals who are residing and may be working in countries of which they are not citizens,

Proclaims this Declaration:

Article 1

For the purposes of this Declaration, the term "non-citizen" shall apply to any individual who lawfully resides in a State of which he is not a national.

Article 2

1. Non-citizens shall observe the laws in force in the State in which they reside and refrain from illegal activities prejudicial to the State.

2. Every State is entitled to expect that non-citizens will respect the customs and traditions of the people of the State.

Article 3

Every State shall make public any laws, regulations or administrative measures which distinguish between citizens and non-citizens or affect the rights of non-citizens.

Article 4

Notwithstanding any distinction which a State is entitled to make between its citizens and non-citizens, every non-citizen shall enjoy at least the following rights, always respecting the obligations imposed upon a non-citizen by article 2, and subject to the limitations provided for in article 29 of the Universal Declaration of Human Rights:

- (i) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution;
- (ii) The right to equal access to and equal treatment before the tribunals and all other organs administering justice, and to have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- (iii) The right to freedom of movement and to choice of residence within the borders of the State, subject to such restrictions as are provided by law and are absolutely necessary for compelling reasons of public policy, public order, national security, or public health or morals;
- (iv) The right to leave the country and return to his own country;
- (v) The right to marriage and choice of spouse;
- (vi) The right to own property alone as well as in association with others;

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- (vii) The right to freedom of thought, conscience and religion;
- (viii) The right to freedom of opinion and expression;
- (ix) The right to freedom of peaceful assembly and association;
- (x) The right to retain his own language, culture, and traditions.

Article 5

No non-citizen shall be subjected to arbitrary arrest or detention.

Article 6

No non-citizen shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 7

1. No non-citizen shall be subjected to arbitrary expulsion or deportation.
2. A non-citizen may be expelled from the territory of a State only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit reasons against his expulsion and to have his case reviewed by and be represented for the purpose before the competent authority or a person or persons especially designated by the competent authority.
3. Collective expulsion of non-citizens is prohibited.

Article 8

Notwithstanding any distinction which a State is entitled to make between its citizens and non-citizens, every non-citizen shall enjoy at least the following economic and social rights, always respecting the obligations imposed on a non-citizen by article 2:

- (i) The right to just and favourable conditions of work, to equal pay for equal work, and to just and fair remuneration;
- (ii) The right to repatriate earnings and savings, in accordance with national laws in force;
- (iii) The right to join trade unions and participate in their activities, subject to national laws in force;

- (iv) The right to public health, medical care, social security, social service and education, provided that the minimum requirements for participation in national schemes are met and that undue strain is not placed on the resources of the State.

Article 9

1. No non-citizen shall be subjected to arbitrary confiscation of his lawfully acquired assets.

2. Any non-citizen whose assets are expropriated in whole or in part in accordance with national laws in force shall have the right to just compensation.

Article 10

Any non-citizen shall be free to communicate with the consulate or diplomatic mission of his country or, in their absence, with the consulate or diplomatic mission of any other State entrusted with the protection of his own country's interests in the State where he resides.
