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ACTIVITIES OF VARIOUS ORGANS OF THE UNITED NATIONS
IN CONNEXION WITH THE RIGHT OF ASYLUM

Memorandum by the Secretary-General

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INTRODUCTION

1. At its second session in December 1947, the Commission on Human Rights decided "to examine at an early opportunity the question of the inclusion of the right of asylum of refugees from persecution in the International Bill of Human Rights or in a special convention for that purpose" (E/600, paragraph 48).
2. At that session the Executive Secretariat of the Preparatory Commission of the International Refugee Organization submitted certain suggestions for the Commission's consideration on emigration, expulsion and the right of asylum, emphasizing, in particular, the importance of these questions to refugees (E/CN.4/41). The Commission's decision was based on a proposal made by the United Kingdom representative in the Working Group set up at that time to work on a preliminary draft of the covenant on human rights.
3. The item "Right of Asylum" has been on the Commission's agenda since its fifth session (1949) as a result of the decision referred to above. The Commission, however, has deferred consideration of it at each subsequent session and the question has never been considered as a separate item. There has been some discussion of the right of asylum and related questions in drawing up the Universal Declaration of Human Rights, which includes an article on the subject (article 14), and the draft International Covenant or Covenants on Human Rights.
4. In this memorandum the Secretary-General draws the attention of the Commission to the discussions and decisions relating to the right of asylum which have taken place in various United Nations organs. In Chapter I the relevant discussions or decisions of the Commission on Human Rights, the Economic and Social Council and the General Assembly on the International Bill of Human Rights are summarized. Chapter II covers the activities of the International Law Commission. In Chapter III relevant discussions and decisions in connexion with the Convention relating to the Status of Refugees adopted in 1951 and the Convention relating to the Status of Stateless Persons adopted in 1954 are noted.

CHAPTER I

THE RIGHT OF ASYLUM AND THE INTERNATIONAL BILL OF HUMAN RIGHTS

A. The Universal Declaration of Human Rights

5. Article 14 of the Universal Declaration of Human Rights reads as follows:

- "(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations".

6. The early drafts of the Declaration included an article on the right of asylum. When the final text was adopted in 1948 an important change was made when it was decided to replace the words "be granted" by the words "to enjoy". According to the Universal Declaration, every person has the right to seek and to enjoy asylum but not the right to be granted asylum. It was thought that the article of the draft Declaration as it stood appeared to enable any persecuted person to claim the right of entry to any country he might choose. In actual practice the right of asylum was generally understood to be the right of a sovereign State to grant asylum and to refuse extradition.

B. Draft International Covenants on Human Rights

7. The Commission considered the inclusion in the draft Covenant on Human Rights of a provision on the right of asylum at its fifth (1949), sixth (1950) and eighth (1952) sessions. Its action is described below. Representatives have on various occasions expressed their regret in the Economic and Social Council and in the General Assembly that no provision on this right was included in the draft covenant. The Director-General of the International Refugee Organization and the High Commissioner for Refugees have repeatedly stressed the importance of the right of asylum for refugees and urged the Commission to include a provision in the covenant or in a separate convention. Their various communications are summarized below.

8. At the Commission's fifth session (1949) it had before it a proposal by the representative of France, requesting the Economic and Social Council "... to initiate a study of the problem of asylum, requesting, to the extent necessary,

the assistance of the other competent organs of the United Nations" (E/CN.4/341). An amendment by Guatemala suggested the addition of a reference to the work of the International Law Commission on the right of asylum. After a brief exchange of views (E/CN.4/SR.133) in which several members expressed their interest in the work of the International Law Commission on this matter (See Chapter II of this memorandum), the Commission decided, at the suggestion of the representative of Iran, to postpone its consideration of the question (E/1371, paragraph 33).

9. At the Commission's sixth session (1950) the Secretary-General circulated to it a communication, dated 30 March 1950, from the Director-General of the International Refugee Organization, in which the following observations were made concerning the right of asylum:

"... the Director-General submits that there is an urgent need to attempt to secure international recognition for measures designed to implement the provisions of article 14 of the Declaration of Human Rights, paragraph 1, in which it is stated that everyone has the right to seek and to enjoy in other countries asylum from persecution.

"If the general right of the individual to seek and enjoy asylum is recognized, it is necessary to attempt to define whose responsibility it is to give effect to this right. Although it is the sovereign right of States to regulate the admission of aliens, nevertheless their policy of admission should be implemented by the Members of the United Nations in such a way that consideration is given to the right of the individual to seek asylum. It should be noted that many States have, in their constitutions, included provisions concerning the right of asylum.

"The implementation of the right of asylum requires the co-operation of States by granting asylum to refugees in their territories, and by relieving States from the burden imposed on them in granting temporary asylum to refugees - particularly in their policy of admission.

"The Director-General submits that one of the most valuable contributions made by the International Refugee Organization to the solution of the refugee problem has been that it has been able to associate countries of immigration with countries of temporary asylum in providing refuge for those fleeing from persecution.

"In the opinion of the Director-General every effort should be made to continue this association which will make it possible for temporary asylum to be given to the continuing influx of bona fide refugees fleeing from persecution". (E/CN.4/392, paragraph J-5).

10. At this session (1950) there was some mention of the right of asylum when article 12 of the draft covenant, which concerned the expulsion of aliens, was under consideration (E/CN.4/SR.153-155). Most of the discussion, however, was directed to the procedures and safeguards which should govern the expulsion of aliens and to the question of extradition and political crimes, arising out of a proposal by the Philippines (E/CN.4/365) and an amendment by Yugoslavia (E/CN.4/423) which were both rejected. It may be noted that in the comments of the Government of the Philippines on this article submitted to the Commission at this session, it was stated that "asylum from persecution, which is recognized in the Declaration of Human Rights should not be forgotten in the Covenant" (E/CN.4/353). The representative of the International Refugee Organization urged the Commission to incorporate the right of asylum in the covenant or at least to recommend its inclusion in the draft Convention on the Status of Refugees which the Economic and Social Council would consider at its forthcoming session (E/CN.4/SR.153, pp. 11-13). The representative of Yugoslavia proposed the text of a new article on the right of asylum providing that "any person persecuted for his activities in support of democratic principles, national liberation, the rights of the working people or scientific or cultural freedom or in support of the accomplishment of the principles of the Charter of the United Nations or the rights embodied in the present covenant shall have the right of asylum in any country" (E/CN.4/396). This proposal was not discussed at the sixth session in any detail but was included in the Commission's report along with other proposals for articles to be added to the draft covenant.

11. A letter of 30 October 1950 addressed to the Secretary-General by the Director-General of the International Refugee Organization expressed his concern that the right of asylum which for the refugee was a corollary to the right to live, was not included in the draft covenant as prepared at the sixth session of the Commission. He also expressed his regret that the Commission had postponed consideration of the item on the right of asylum and hoped that "this question will be considered by the Commission at its seventh session and that its consideration will result in the embodiment of the right of asylum of refugees into the Covenant on Human Rights, or in a special international instrument" (E/1880, page 6).

12. At the fifth session of the General Assembly (September-December 1950), during the discussion of the draft covenant in the Third Committee, the representative of Yugoslavia said that it was regrettable that the first eighteen articles did not include certain rights, among them the right of individuals fighting for United Nations principles, to asylum and protection against extradition (A/C.3/SR.29, paragraph 21). In an amendment to a draft proposal on the future work of the Commission on Human Rights submitted by Brazil, Turkey and the United States of America (A/C.3/L.76) he suggested the addition of certain rights in the Covenant, among them the right of asylum (A/C.3/L.92). The General Assembly, in resolution 421 B (V), called upon the Economic and Social Council to request the Commission on Human Rights to take into consideration, in revising the draft covenant, the views expressed, including, "with a view to the addition in the draft covenant of other rights, those relating to the rights set forth by ... Yugoslavia in document A/C.3/L.92".

13. In September 1951 the High Commissioner for Refugees submitted certain observations to the Council (thirteenth session), in which he associated himself with the comments of the Director-General of the International Refugee Organization on the right of asylum referred to in paragraph 11 above, and expressed the hope that an article on this right would be incorporated in the covenant. He did not underestimate the difficulties in formulating the right of asylum in a legally binding document such as the covenant, but stated his opinion that the introduction of a special procedure of implementation which was particularly applicable to non-judicable rights should facilitate the incorporation of this right into the covenant. He pointed out also that while the Convention relating to the Status of Refugees under which refugees would be granted certain rights, had been adopted in July 1951 that fact did not derogate from the importance which the covenant would have for refugees (E/2085/Add.1). The Council did not enter into any discussion of the individual articles of the draft covenant, but, inter alia, requested the Commission to proceed with the tasks assigned to it under resolution 421 (V) of the General Assembly, in particular, the revision of the first eighteen articles of the draft covenant (resolution 384 (XIII)).

14. The Commission was unable to act on the General Assembly's recommendation contained in resolution 421 B (V) before its eighth session in April-June 1952. By that time the General Assembly had decided on the preparation of a draft covenant on civil and political rights and a draft covenant on economic, social and cultural rights. When considering at this session article 11 of the draft covenant on civil and political rights on the protection of aliens against arbitrary expulsion, the Commission discussed at some length proposals to add a new paragraph covering the right of asylum. The High Commissioner for Refugees in a letter of 20 March 1952 again emphasized his position with regard to the inclusion of this right in the covenant (E/CN.4/659).

15. Chile, Uruguay and Yugoslavia jointly presented a revised text of the provision on the right of asylum which Yugoslavia had submitted to the Commission at its sixth session as a separate article (E/CN.4/L.190/Rev.2 and paragraph 10 above). It provided that the right of asylum should be guaranteed to "all persons charged with political offences and, in particular, to all persons accused or persecuted because of their participation in the struggle for national independence or political freedom or because of their activities for the achievement of the purposes and principles set forth in the Charter of the United Nations and in the Declaration of Human Rights". The USSR proposed that the right should be guaranteed "to all persons persecuted for their activities in defence of democratic interests for their scientific work or for their participation in the struggle for national liberation" (E/CN.4/L.184). Amendments by France (E/CN.4/L.191) to both these proposals provided that "everyone has the right to seek asylum from persecution" which was subsequently changed during the debate to read: "Everyone has the right to enjoy asylum from persecution". The joint proposal of Chile, Uruguay and Yugoslavia denied the right of asylum to persons alleged to have committed acts contrary to the principles of the Charter or of the Universal Declaration of Human Rights. The proposal of the USSR stated that the right of asylum might not be granted in connexion with any prosecution based on the commission of war crimes or criminal offences or acts contrary to the purposes and principles of the United Nations. The French amendments denied it in the case of persecution genuinely arising from non-political crimes or from acts contrary to the purposes or principles of the United Nations. It provided also that the State Parties to the Covenant would strive to take steps

individually and in concert with other States Parties and with the United Nations to ensure the effective granting of the right of asylum.

16. In discussing these proposals and amendments (E/CN.4/SR.316-318) members of the Commission emphasized the importance of the right of asylum, pointing out also that it had been included in the Universal Declaration of Human Rights and to exclude it from the draft covenant on civil and political rights would be a serious omission. Others claimed that the right of asylum was not a fundamental right of the individual but the right of a State to extend its protection to the individual and that States would be unwilling to surrender the right to decide in each instance which aliens they would admit to their territory. The proposals and the amendments were all rejected; the amendment of France by 9 votes to 3 with 6 abstentions; the proposal of the USSR by 10 votes to 5 with 3 abstentions and the proposal of Chile, Uruguay and Yugoslavia by 10 votes to 4 with 4 abstentions.

17. The question has not again been raised in the Commission, but at the General Assembly's ninth session (1954) during the first reading of the draft covenants in the Third Committee, which included a general discussion, some representatives expressed their regret that the draft covenant on civil and political rights did not include any article on the right of asylum.

CHAPTER II

THE RIGHT OF ASYLUM BEFORE THE INTERNATIONAL LAW COMMISSION

18. In pursuance of resolution 175 (II) of the General Assembly, the Secretary-General submitted to the first session of the International Law Commission (12 April - 9 June 1949) a "Survey of International Law in relation to the work of codification of the International Law Commission" (A/CN.4/1/Rev.1, 10 February 1949). Using the memorandum of the Secretary-General as a basis for discussion the International Law Commission reviewed twenty-five topics of international law, among them extradition and the right of asylum. It drew up a provisional list of fourteen topics selected for codification. The treatment of aliens and the right of asylum were included in this list. Extradition was

considered inappropriate for codification at the present time (A/CN.4/SR.6). The Commission next considered which of the fourteen topics selected for codification should be assigned priority. Although the importance of the right of asylum was stressed, the Commission finally decided to give priority to a group of three topics which included neither treatment of aliens nor the right of asylum (A/CN.4/SR.7).

19. The topic of the right of asylum came up again for discussion during the debates in the International Law Commission on the draft Declaration on Rights and Duties of States. A proposal was submitted by Mr. Alfaro, Mr. Scelle and Mr. Yepes to include in the draft Declaration the following additional article relating to the right of asylum (A/CN.4/SR.16, page 15):

"Every State has the right to accord asylum to persons of any nationality who request it in consequence of persecutions for offences which the State according asylum deems to have a political character. The State of which the refugee is a national has the duty to respect the asylum accorded and may not consider it an unfriendly act".

It may be noted that in the course of the discussion on the draft Declaration on Rights and Duties of States the question of the right of asylum was considered too complex to be dealt with in a single article. In the debate reference was made to a Peruvian-Colombian dispute over the right of asylum and to the advisability of waiting for the decision of the International Court to which the dispute had been submitted. Eventually, it was decided not to include an article on the right of asylum in the draft Declaration (A/CN.4/SR.20, page 20, and A/925, paragraph 23).

20. At the beginning of the second session of the International Law Commission (5 June - 29 July 1950), it was mentioned that a case involving the right of asylum was pending before the International Court of Justice. The Commission decided not to include the right of asylum in the agenda of that session (General Assembly Official Records - fifth session - Supplement No. 12 - (A/1316), paragraph 12). It has not been included in the agenda of the third to the sixth sessions (1951-1954) of the Commission.

21. The Judgments of the International Court of Justice on this case may be found in the following documents: Colombian-Peruvian Asylum Case, Judgment of November twentieth 1950: I.C.J. Reports 1950, page 395; and Haya de la Torre case, Judgment of thirteenth June 1951, I.C.J. Reports 1951, page 71.

CHAPTER III

THE RIGHT OF ASYLUM AND THE CONVENTION RELATING TO THE STATUS OF REFUGEES (JULY 1951) AND THE CONVENTION RELATING TO THE STATUS OF STATELESS PERSONS (SEPTEMBER 1954)

22. A Conference of Plenipotentiaries was convened in July 1951, under General Assembly resolution 429 (V) of 14 December 1950, to complete the drafting of and to sign a Convention relating to the Status of Refugees and a Protocol relating to the Status of Stateless Persons.

23. Preliminary drafts of both these instruments had been prepared by an ad hoc Committee of the Economic and Social Council established under resolution 248 B (IX) of 8 August 1949. This Committee held two sessions from 16 January to 16 February and 14 to 25 August 1950.

24. The Conference of Plenipotentiaries adopted, on 25 July 1951, a Convention relating to the Status of Refugees which was opened for signature on 28 July 1951 and came into force on 22 April 1954. The Conference referred the draft Protocol relating to the Status of Stateless Persons back to the appropriate organs of the United Nations for further study.

25. In resolution 526 A (XVII) of 26 April 1954 the Economic and Social Council decided to convene a second Conference of Plenipotentiaries to revise the draft Protocol in the light of the provisions of the Convention relating to the Status of Refugees and the observations made by Governments at the request of the General Assembly in resolution 629 (VII). This Conference was convened on 13 September 1954. It decided that it would draw up, not a Protocol, but a Convention relating to the Status of Stateless Persons. The text of the Convention was adopted on 23 September 1954 and opened for signature on 28 September 1954. The articles of the Convention relating to the Status of Refugees were used as the basis for discussion at the second Conference of Plenipotentiaries and considered for their applicability to stateless persons.

A. Convention relating to the Status of Refugees of 28 July 1951 (A/CCNF.2/108)

26. Three articles of the Convention relating to the Status of Refugees are of particular interest in connexion with the right of asylum: articles 31 (Refugees unlawfully in the country of Refuge); 32 (Expulsion); and 33 (Prohibition of

Expulsion or Return ("Refoulement")). It may also be noted that in the fourth paragraph of the Preamble, as drafted by the ad hoc Committee (E/1850), the right of asylum is referred to in the following terms:

"Considering, however, that the exercise of the right of asylum may place unduly heavy burdens on certain countries and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation".

The Conference changed the first part of this phrase to read:

"Considering that the grant of asylum may place unduly heavy burdens ...".

In support of this change it was argued that the phrase should be brought into line with paragraph 1 of article 14 of the Universal Declaration of Human Rights (see A/CONF.2/SR.31).

Article 31 (Refugees unlawfully in the Country of Refuge)

27. The text of article 31 of the draft Convention relating to the Status of Refugees (E/1850, article 26), read as follows:

"1. The Contracting States shall not impose penalties, on account of his illegal entry or presence, on a refugee who enters or who is present in their territory without authorization, and who presents himself without delay to the authorities and shows good cause for his illegal entry or presence.

2. The Contracting States shall not apply to such refugees restrictions of movement other than those which are necessary and such restrictions shall only be applied until his status in the country is regularized or he obtains admission into another country. The Contracting States shall allow such refugee a reasonable period and all the necessary facilities to obtain admission into another country".

In commenting on this text in the report on its first session (E/1618) the Committee stated:

"It is in keeping with the notion of asylum to exempt from penalties a refugee who is escaping from persecution but who, after crossing the frontier clandestinely, presents himself as soon as possible to the authorities of the country of asylum and shows good reason for his unauthorized entry".

28. During the discussion of this article at the Conference (A/CONF.2/SR.13, 14 and 35) it was said that the right of asylum was implicit in the Convention as a whole even if it was not explicitly proclaimed in it, since the very existence

of refugees depended on that right. The exemption of refugees from penalties being imposed on them for illegal entry into a country was a corollary of the right of asylum. But, if the right of a refugee to seek asylum in a receiving country was recognized, then his obligations towards the authorities of that country must also be recognized. Several representatives expressed their view that the article should not be interpreted to mean that a State could not expel an alien who had entered its territory illegally. Some emphasized that the right of asylum was the right of a State to grant asylum but not the right of an individual entitling him to insist that asylum be extended to him. Under the proposed article refugees would be exempt from penalties which could be imposed on them by law on a charge of illegal entry, provided they presented themselves of their own free will and explained their case to the authorities, showing "good cause for their illegal entry or presence".

29. There was some debate on the meaning which should be given to the phrase quoted above, although it was generally held that this could not be precisely defined in the article. It was agreed that circumstances threatening the life or liberty of a refugee would constitute "good cause". There was some criticism that the text as presented by the ad hoc Committee would allow a refugee, once he had found asylum, to move freely from country to country without having to comply with the necessary formalities. A proposal was made that only refugees "coming directly from their country of origin" should be exempt. Against this it was argued that refugees might have to pass through several countries where their lives would be in danger before finally finding asylum, and the proposal was revised to read: "being unable to find asylum, even temporary, in a country other than one in which his life or freedom would be threatened". This was considered unsatisfactory since it would impose on the refugee the burden of proving that he had been unable to find asylum anywhere. The wording finally agreed upon was: "coming directly from a country where their life or liberty was threatened in the sense of article 1", article 1 containing the definition of a refugee under the Convention.

The text of the article adopted by the Conference reads as follows:

"1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country".

Article 32 (Expulsion)

30. The text of article 31 of the draft Convention (E/1850, article 27) adopted by the ad hoc Committee read:

"1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such refugee shall be only in pursuance of a decision reached in accordance with due process of law. The refugee shall have the right to submit evidence to clear himself and to appeal to and be represented before competent authority.

3. The Contracting States shall allow such refugees a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary".

In commenting on the text adopted at its first session (E/1618)^{1/} the Committee stated:

"1. While other aliens can, in cases of expulsion be returned to their country of nationality, this is not possible in the case of refugees. In consequence the expulsion of a refugee is an especially serious measure.

2. Expulsion orders may sometimes be due to false accusations and the malice of ousted competitors. It may even happen that such orders are

^{1/} The text adopted at the first session included, at the end of paragraph 1 the phrase "and in pursuance of a decision reached in accordance with due process of law". Paragraph 2 read as follows: "Such refugee shall be entitled, in accordance with the established law and procedure of the country, to submit evidence to clear himself and to be represented before the competent authority". Paragraph 3 was the same as the text quoted above.

due to errors in identity. For these reasons, paragraph 2 provides that a refugee shall be permitted to clear himself and to be represented before the competent authority".

31. The discussion of this article at the Conference (A/CONF.2/SR.14 and 15) covered the provisions of paragraphs 1 and 2. The interpretation of the term "public order" was raised and it was suggested that, in English, it would refer to matters relating to crime and **public** morals. No attempt was made to define the scope of the term, but the question arose whether it could be used as an excuse for expelling indigent refugees and it was made clear that the Conference did not intend that refugees could be expelled solely on such grounds.

32. There was some debate also on the procedure for appealing against a decision of expulsion by the refugee provided in paragraph 2 of the article. Some representatives stated that while, in general, refugees must have and were granted the right to submit evidence to clear themselves there might be circumstances of national security when this would not be possible. It was decided therefore to add the qualifying phrase: "except where compelling reasons of national security otherwise require". The point was also made that the "competent authority" to which the refugee could appeal might not always be able to hear the evidence personally, if such authority was one individual. It was agreed, therefore, to insert a provision which would allow the competent authority to designate a person or persons to whom the refugee could appeal.

33. The text of the article adopted by the Conference reads:

"1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary".

Article 33 - Prohibition of expulsion or return ("Refoulement")

34. The text of article 33 of the draft Convention (E/1850, article 28) adopted by the ad hoc Committee read:

"No Contracting State shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality or political opinion".

The comments of the Committee on this article (E/1618) were as follows:

"The turning back of a refugee to the frontiers of a country where his life or freedom would be threatened on account of his race, religion, nationality or political opinion would be tantamount to delivering him into the hands of his persecutors ... In the present text reference is made not only to the country of origin, but also to other countries where the life or freedom of the refugee would be threatened for the reasons mentioned. This article does not imply that a refugee must, in all cases, be admitted to the country where he seeks entry".

35. The Conference added another reason why a refugee should not be expelled or returned, namely, "membership of a particular social group" to bring the article into line with the definition article (article 1) which included this phrase. Most of the discussion at the Conference (A/CONF.2/SR.16 and 35) was concerned with a proposed additional paragraph which was intended to safeguard States against possible abuses of the right of asylum by refugees.

Representatives expressed their particular concern with this point in view of the fact that this article was one to which no reservations were permitted under article 42 of the Convention. It was proposed to exclude from the provisions of article 33 a refugee against whom "there are reasonable grounds for regarding as a danger to the security of the country in which he is residing, or who, having been lawfully convicted in that country of particularly serious crimes or offences, constitutes a danger to the community thereof". In support of this proposal it was argued that the right of asylum rested on moral and humanitarian considerations which were freely recognized by receiving countries, but the right had certain essential limitations. Unless States could withdraw the right of asylum in certain circumstances they would hesitate before granting it unconditionally. Some doubt was expressed as to the scope and meaning of the words "reasonable grounds" and it was explained that it would be for States to determine whether there were sufficient grounds for regarding a refugee as a danger to the security of a country. It would be unreasonable to expect States

not to safeguard themselves against refugees who engaged in activities on behalf of a foreign power against the country in which they had found asylum. However, to condemn them to life-long imprisonment, even if that were practicable, would be no better solution. The question was raised whether "reasonable grounds" could be interpreted to cover the case where the country of origin demanded the return of a refugee and to refuse that demand might provoke a political crisis and, the refugee might, therefore, be a danger to the "security of the country in which he is residing". It was generally agreed that this was a matter of extradition which did not fall within the scope of the article. There was some discussion also of the nature of the crime or offence committed by a refugee for which he could be expelled, and whether the article should restrict the commission of the crime to the country of residence. It was pointed out that if he had been sentenced in the country of origin it should not necessarily be held against him. The Conference extended the provision to apply to the country in which the refugee "finds himself" and also deleted the reference to the country of residence as being the one in which the crime must be committed before the refugee could be expelled or returned. It was also decided that the refugee had to be convicted of a particularly serious crime and "by a final judgment".

36. There was some discussion also of the meaning of the terms "expulsion" and "return" ("refoulement") in this article and the following interpretation was recorded: that the word "expulsion" related to a refugee already admitted into a country whereas the word "return" ("refoulement") related to a refugee already within the territory but not yet resident there. The article therefore involved no obligations in the case of mass migration of refugees across frontiers or of attempted mass migrations.

37. The text of the article adopted by the Conference reads:

"1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country".

B. Convention relating to the Status of Stateless Persons
of 28 September 1954 (E/CONF.17/5)

38. In considering articles 31, 32 and 33 of the Convention relating to the Status of Refugees, the 1954 Conference on the Status of Stateless Persons decided that articles 31 (Refugees unlawfully in the country of refuge) and 33 (Prohibition of expulsion or return ("Refoulement")) which had not been included in the draft Protocol, were not applicable to stateless persons. Article 32 (Expulsion) was included in the Convention relating to the Status of Stateless Persons.

39. In the discussion of this article at the Conference (E/CONF.17/SR.8, 10 and 15) some representatives expressed certain reservations that, while refugees should not be expelled save on grounds of national security, that was not as true in the case of stateless persons. The suggestion was made that a time-limit might be established, and five years was mentioned as the period after which stateless persons could not be expelled. The majority, however, considered five years would be much too long and were of the view that stateless persons should have some guarantee against expulsion. They considered that the text as it stood, which stated that stateless persons lawfully in the territory of a Contracting State could not be expelled save on grounds of national security or public order, gave sufficient discretionary powers to the Contracting States since the interpretation of "national security" and "public order" was left to each Government.

40. The text of the article adopted was the same as article 32 of the Convention relating to the Status of Refugees (see paragraph 33) except that the words "stateless person" was substituted for "refugee" wherever necessary. This article became article 31 of the Convention relating to the Status of Stateless Persons.
