

**INTERNATIONAL PROTECTION OF REFUGEES**

*A study on "Human Rights and Refugees" appeared in the October and November 1972 issues of International Review. Its author, Mr. P. Weis, suggested that the evolution in this special field might be of interest for the wider problem of the protection of human rights and the question of the status of individuals in international law. The Office of the United Nations High Commissioner for Refugees (UNHCR) has just issued a publication on its work during the last year (Geneva, December 1972), in which an article reflects its concern about these problems and gives figures on the situation at the end of 1972 regarding international and regional conventions and agreements relating to the protection of refugees and to statelessness. We believe some extracts from this article would be of interest to our readers.*

*The urgent nature of these questions was emphasized by the recent events in Uganda, when thousands of persons were able to leave the country thanks to the arrangement negotiated by the mission despatched to Kampala by the Secretary-General. The delegation of the ICRC, working in close co-operation with the delegates of the Office of the United Nations High Commissioner for Refugees and of the Intergovernmental Committee for European Migration, issued "ICRC travel documents" to over 4,000 persons who were stateless or of undetermined nationality, permitting them to go to countries offering resettlement or to transit centres in Europe as a stepping-stone to countries accepting them as immigrants.*

...In 1972, efforts were continued to secure accessions to the main international instruments in the field of international protection. The number of parties to the 1951 Convention relating to the Status of Refugees, which defines the rights of refugees and sets out the standard of treatment to which they are entitled, increased by two in 1972 to a total of 63, while the 1967 Protocol relating to the Status of Refugees, which extends the application of the

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1951 Convention to new groups of refugees, has now been ratified by 52 countries, an increase of four since the end of 1971.

At the same time, UNHCR tried to ensure that Governments which had acceded to these instruments effectively applied their provisions through legislation or administrative practice. In the course of 1972, seventeen more Governments replied to the detailed UNHCR questionnaire concerning the measures adopted to give effect to commitments under the 1951 Convention and 1967 Protocol, making a total of 37 replies at the end of October. The information supplied by these Governments indicates that in only very few cases is there a lack of conformity between current procedures and the requirements of the Convention.

Within the framework of efforts to promote wider understanding of international instruments in this field, the Director of Protection, Mr. E.K. Dadzie, undertook missions to Botswana, Ethiopia, Kenya, Tanzania, Zambia and Uganda. He found a general willingness to give effect to the standards defined in the 1951 Convention, notwithstanding some of the special difficulties faced by developing countries, for example in according refugees the right to gainful employment. Particular stress was laid by Mr. Dadzie on the need to determine the refugee status of asylum seekers without delay and to avoid measures such as detention until a decision were taken. During Mr. Dadzie's visits some of the Governments stated that they would do their best to improve this situation in the future.

Apart from the main instruments of international scope, there are regional agreements of importance to the safeguard of the rights of refugees. One of the most significant is the 1969 Convention of the Organization of African Unity governing the Specific Aspects of Refugee Problems in Africa. During 1972, three more States ratified it, bringing the total who have done so to eight. Entry into force requires ratification by 13 member States of the OAU.

An important development in the field of legal protection during the year was the preparation of a draft Convention on Asylum by a group of 16 independent legal experts brought together at the initiative of the Carnegie Endowment for International Peace. At present there are two UN Declarations that are concerned with asylum, one the Universal Declaration of Human Rights (1948), Article 14 of which proclaims: "Everyone has

the right to seek and to enjoy in other countries asylum from persecution " but does not stipulate that States should grant it, and the other, on Territorial Asylum (1967) which, *inter alia*, calls on Governments to refrain from measures such as rejection at the frontier, or expulsion or return of a person to a country where he may fear persecution. However, neither possesses legally binding force.

At the annual session of the Executive Committee of the High Commissioner's programme in October, the majority of delegates who addressed themselves to this matter expressed the view that a Convention on Territorial Asylum would fill a gap in the legal framework of international protection. The question has been submitted to the General Assembly for further consideration.

Another aspect of the problem of international protection to which UNHCR gave particular attention in 1972 was statelessness. On the one hand, the Office continued to deplore acts which produce refugees or stateless persons. As the High Commissioner stated at the annual session of the Executive Committee, the " question of statelessness has been very closely linked with the problem of refugee status since the inception of UNHCR. In many ways, the position of refugees and stateless persons is similar. Many refugees indeed are stateless. (The difference, it would seem to me, is that whereas a refugee is often a *de facto* unprotected person, the stateless person is a *de jure* unprotected person.) And just as a refugee, though he may not have lost his nationality, will not be able to avail himself of the protection of his national authority when he crosses the border and finds himself in a foreign land, a stateless person in fact may not be in a position to enjoy any protection from any legal authority either in his country of habitual residence where he is or outside it ".

The possibility of action to prevent statelessness is limited, but there are two international instruments that offset the effects of statelessness once it occurs. During 1972 there were four new accessions—Argentina, Barbados, Fiji and Switzerland—to the 1954 Convention on Stateless Persons, which accords a standard of treatment that is in many ways similar to that contained in the 1951 Convention relating to the Status of Refugees: there are now 26 parties to the 1954 Convention. To the second, the 1961

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Convention on Reduction of Statelessness, there was only one new ratification—by Austria—in 1972, bringing the number of parties to four, whereas six ratifications are required to bring it into force. This instrument is of considerable importance since it prevents statelessness from being passed on from one generation to the next, mainly by promoting the acquisition of a nationality by children who would otherwise be stateless. At the meeting of the Executive Committee, the High Commissioner renewed his appeal for accessions. “I sincerely believe,” he stated, “that it is of the utmost importance that Governments and indeed the whole of the international community should give the problem of statelessness its utmost attention as soon as possible.”