

UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL



GENERAL

E/AC.32/SR.4  
26 January 1950

ORIGINAL: ENGLISH

AD HOC COMMITTEE ON STATELESSNESS AND RELATED PROBLEMS

SUMMARY RECORD OF THE FOURTH MEETING

Held at Lake Success, New York,  
on Wednesday, 18 January 1950, at 11 a. m.

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<u>Chairman:</u>	Mr. Leslie CHANCE	Canada
<u>Members:</u>	Mr. CUVELIER	Belgium
	Mr. GUERREIRO	Brazil
	Mr. CHA	China
	Mr. LARSEN	Denmark
	Mr. RAIN	France
	Mr. ROBINSON	Israel
	Mr. KURAL	Turkey
	Sir Leslie BRASS	United Kingdom of Great Britain and Northern Ireland
	Mr. HENKIN	United States of America
	Mr. PEREZ FEROZO	Venezuela

Representatives of specialized agencies:

Mr. WEIS

International Refugee Organization  
(IRO)

Consultant from non-governmental organizations:

Mr. STOLZ

American Federation of Labor  
(AF of L)

Secretariat:

Mr. HUMPHREY

Director, Human Rights Division

Mr. HOGAN

Secretary of the Committee

INTERNATIONAL STATUS OF REFUGEES AND STATELESS PERSONS: ITEM 4 OF THE AGENDA  
(E/AC.32/2) (continued)

1. The CHAIRMAN summarized briefly the work already performed by the Committee and invited it to reach a decision on the question of principle raised in the preceding discussion, namely: whether the proposed convention should apply to both refugees and stateless persons, or exclusively to refugees, whether stateless or not.
2. Mr. ROBINSON (Israel) drew attention to the fact that if the Committee decided to limit the application of the convention to refugees it might be violating its terms of reference, which required it to consider the desirability of preparing a revised and consolidated convention relating to the international status of "refugees and stateless persons". If the Economic and Social Council had wished the Committee to prepare a convention dealing only with the status of refugees, including such refugees as were stateless, it would have used the word "refugees" alone; there would have been no need to add "stateless persons".
3. The Committee could, however, comply with its terms of reference without dealing with the whole question of statelessness. Mr. Robinson drew a distinction between persons who had lost their nationality by their own acts and in full knowledge of the consequences, and those who had lost it owing to circumstances beyond their control. The second group -- which incidentally was not inconsiderable -- had a far better claim on humanitarian grounds to the protection of the United Nations.

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He therefore thought that the Committee should include in article 2 of the draft convention a statement to the effect that the convention should apply to stateless persons who had lost their nationality for reasons beyond their control. The terms of reference would then be fully respected.

4. He remarked in passing that the terms "stateless de facto" and "stateless de jure" employed in the draft convention were open to question. Statelessness was a legal concept, a legal relationship or lack of it between the stateless person and the country of which he had been a national, and consequently could only be de jure. What was designated in the draft convention as statelessness de facto was in effect merely the lack of diplomatic protection. The proper legal term to be used in the convention was therefore simply "stateless persons".

5. Mr. HENKIN (United States of America) said that in the view of his Government the convention should apply only to refugees, whether or not they were stateless, and not to stateless persons who were not refugees. Statelessness as such was a separate problem which should be dealt with separately.

6. He was unable to agree with the Israel representative either on the distinction between two categories of stateless persons or on the interpretation of the Committee's terms of reference. All stateless persons, whatever the reason for their status, represented a humanitarian problem. The Committee had duly considered the question and was free, under its terms of reference, to decide not to draw up any convention at all, and certainly free to restrict its scope to refugees.

7. Sir Leslie BRASS (United Kingdom) said that, as the United Kingdom proposal for article 1 (E/AC.32/L.2) indicated, his Government would wish the draft convention to apply both to refugees and to stateless persons. It was, in fact, in order to avoid drawing any distinction between the two groups that they had been designated in the proposal as "unprotected persons", which in essence they were, though some other equally general term might be used instead. He agreed with the United States representative that all stateless persons were in the same position and were entitled to the same protection, whatever the reason for their lack of nationality.

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8. While he also shared the United States representative's views on financial assistance, he did not feel that statelessness represented a separate problem. The draft convention was concerned mainly with the status of the persons to whom its provisions would apply; the status of both refugees and stateless persons was that of unprotected persons in need of international protection, and the convention should therefore apply equally to both groups.

9. He added that if the Committee should later decide to include in the draft convention an article on the admission of persons seeking asylum, a special definition of that group might be necessary, as it was quite distinct from both refugees and from those stateless persons who had already been admitted and required only determination of their legal status.

10. Mr. GUERREIRO (Brazil) stated that the Council had given the Committee flexible terms of reference: it had not asked the Committee simply to prepare a draft convention, but had asked the Committee to consider the desirability of a convention. It followed that the Committee could recommend that no convention should be prepared and, a fortiori, that it had the right to propose a convention of wide or narrow scope.

11. A majority of Committee members favoured a draft convention applicable only to refugees, including refugees who were at the same time stateless persons. The majority was prompted, not by a desire to leave stateless persons who were not refugees without protection, but by the realization that the refugees were in much more urgent need of immediate protection.

12. He understood that if it were decided to include only refugees within the scope of the draft convention, such a decision would not preclude consideration of the status of stateless persons under the same agenda item (4), rather than under item 5, which dealt with the elimination of statelessness itself. He agreed with the representative of Israel that the problem of stateless persons differed from that of statelessness per se and should be considered under item 4 of the agenda. He also agreed with the suggestion previously made by the Chairman, that priority should be given to the consideration of the status of refugees.

/13. Mr. LARSEN

13. Mr. LARSEN (Denmark) was in general agreement with the representative of Brazil. The question of refugees was more pressing than that of stateless persons, although the latter, too, should be considered by the Committee. Priority should be given to the former question, because the refugee problem was a question of rehabilitating large numbers of people suddenly forced into precarious situations as the result of developments over which they had no control. For them every minute counted, while stateless persons who were not refugees were not so numerous nor did they present to the civilized world a social problem of the same degree.

14. The problem confronting the Committee could perhaps be solved by the preparation of two draft conventions: the first to apply to refugees, the second to stateless persons.

15. All the members of the Committee agreed that the draft convention must apply to refugees. Hence it would be preferable to consider first a draft convention concerning refugees. Once that task had been completed successfully, the Committee might draft a second convention concerning stateless persons, in which it might find it advisable to include some of the articles previously approved for inclusion in the draft convention on refugees. As a third step, the Committee might then embark upon the most difficult work of seeking to develop ideas on the elimination of statelessness (item 5). He thought that a three-point plan of that type would facilitate the Committee's work.

16. Mr. CUVELIER (Belgium) stated that he had been somewhat surprised by what appeared to be a tendency to limit the Committee's work to the question of refugees. He favoured a wider approach which would include stateless persons.

17. In addition to refugees and other foreigners, there were also stateless persons in Belgium, and the Belgian Government had hoped that the Committee would work out a basis determining their status. He agreed with

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what had been said by the representative of the United Kingdom, but did not share the views of the representative of France, since the problem was to define the rights of persons who had already been granted asylum. The Belgian Government favoured a general draft convention which would include within its purview refugees and stateless persons.

18. Mr. RAIN (France) thought that the representative of Belgium and he differed merely with respect to the method of work. Like Belgium, France was aware that there existed the problem of stateless persons who were not at the same time refugees and that that problem was independent of item 5 of the agenda. France, too, considered that such stateless persons should be afforded protection. He agreed with the representative of Denmark, however, that the refugee problem was far more pressing than that of stateless persons who were not also refugees. It was, indeed, so pressing as to necessitate immediate consideration.

19. Once that had been done, the less acute problem of stateless persons who were not refugees could and should be considered with a view to affording them the protection they required.

20. He noted that the expression "seeking asylum", used in the French proposal, had caused some concern. He wished to explain that the term had not been intended to apply to persons seeking asylum while in their own country of origin: it was intended to apply to those who had already left their country of origin and were seeking asylum in a country other than the one to which they had gone upon leaving their homeland. It would, for example, apply to Jews who had fled from Germany to a country X and were now seeking asylum in a country Y.

21. Reverting to the discussion in progress, Mr. Rain said it was a question not of the precise definition of the term "refugees", but rather of what type of definition should be chosen. He concluded from the remarks of the representative of Israel that the latter, too, considered that there were two types of stateless persons -- refugees and non-refugees --

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and that the two types should be treated differently. There thus appeared to be general agreement in substance. In his opinion, the Committee should agree to deal first with the question of refugees, including refugee stateless persons, and subsequently with the problem of non-refugee stateless persons.

22. Returning to the question of an adequate definition of the term "refugee", Mr. Rain said that he would not press for adoption of the wording proposed by his delegation. Any definition, however, should be couched in general terms and should cover all existing categories of refugees as well as those groups which might be created in the future. In that connexion, the United States representative had recalled that General Assembly resolution 319 (IV) establishing the High Commissioner's Office for Refugees stipulated that persons falling under the competence of that Office should be refugees as defined in the Constitution of the IRO. On the other hand, sub-paragraph (b) of paragraph 4 of the operative part of that same resolution requested the Economic and Social Council to transmit to the General Assembly its recommendations regarding the definition to be applied by the High Commissioner. Presumably, the Assembly would then adopt a new definition and no longer consider itself bound by the IRO interpretation of the term "refugee". That assumption was borne out by the fact that no reference was made to the IRO definition in paragraph 4.

23. The United States representative had further noted that while the United Nations would undertake no obligation to furnish assistance to refugees covered by a convention, some administrative expenditures might be entailed. The French delegation considered that a general convention embracing all existing groups of refugees should in no case commit the United Nations to considerable expenditure either for assistance or for administrative purposes. When, in the Assembly, France had supported the establishment of a High Commissioner's Office, it had not envisaged the creation of complicated administrative machinery. The High Commissioner, representing the moral authority of the United Nations, should exercise control personally, with the assistance of a small number of representatives of the countries with the largest groups

/of refugees

of refugees. He should supervise the proper application of the relevant convention and, with the aid of his advisers, arrange for the conclusion of whatever supplementary treaties with individual countries might be deemed necessary. He did not need to burden his Office with a large administrative staff.

24. Mr. Rain offered the hospitality of his country to the offices of the High Commissioner, or his Deputy, if and when such offices were established.

25. He then drew attention to the definition of neo-refugees in the United States draft proposal concerning article 1 of a convention. That provision stated that the convention would apply to all persons who had become refugees as a result of events subsequent to the outbreak of the Second World War, with the exception, inter alia, of persons of "German ethnic origin residing in Germany". The French delegation found that exception unfortunate; classification along racial lines surely had no place in a definition of refugees. On the other hand, war criminals would naturally be excluded from the protection of a convention.

26. The CHAIRMAN, reverting to the scope of the Committee's work and speaking as the representative of Canada stressed that for his country, at least, refugees presented a practical problem which urgently required solution. Decisions had to be taken regarding the rights to be granted them and the travel documents to be issued. While the question of stateless persons should not be excluded from consideration by the Committee, its first task appeared to be the drafting of a convention on refugees. When it had been completed, the Committee should proceed to work out proposals governing an international status for stateless persons.

27. The matter of financial assistance to any refugee group was clearly not in the scope of the Committee's work. Its functions were purely technical and the Canadian Government, for one, would be reluctant to undertake financial responsibility towards any large group of refugees included in a general definition.

/28. Mr. ROBINSON



26. Mr. ROBINSON (Israel) summarized the various views put forward in the course of what he considered a most enlightening discussion. The representative of the United Kingdom had implicitly accepted the status of stateless persons as part of the task assigned to the Committee; the representative of Belgium appeared to concur in that view; the Israel delegation had explicitly stated that the question of statelessness and stateless persons should be dealt with.

27. Accordingly, several courses were open to the Committee. The representatives of Denmark and Brazil seemed to favour the elaboration of two successive conventions, one on refugees and the other on stateless persons. Alternatively, after drafting a convention on refugees, the Committee could work out a supplementary article specifying that a certain number of its provisions should apply to stateless persons as the Committee would then define that term. On the understanding that the subject of stateless persons would eventually be dealt with by the Committee either in the form of a second convention or as a supplementary article to a convention on refugees, Mr. Robinson suggested immediate consideration of article 1. That article might subsequently have to be expanded when the question of extending the provisions of the convention to stateless persons was settled.

30. Mr. GUERREIRO (Brazil) noted that he had not specifically called for two successive conventions. The convention on refugees should be prepared forthwith; the Committee would then, in further consideration of item 4 of its agenda, deal with the matter of stateless persons, in the form either of another convention or of a series of concrete proposals.

31. The CHAIRMAN observed that the redraft of the United States and French proposals for a definition of the term "refugee" would be circulated at the following meeting.

The meeting rose at 12.40 p.m.

26/1 a.m.