

발간등록번호

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2009 세계난민의 날 기념 토론회

# 국내 체류 난민의 기본권 보호와 사회통합을 위한 정책 방향

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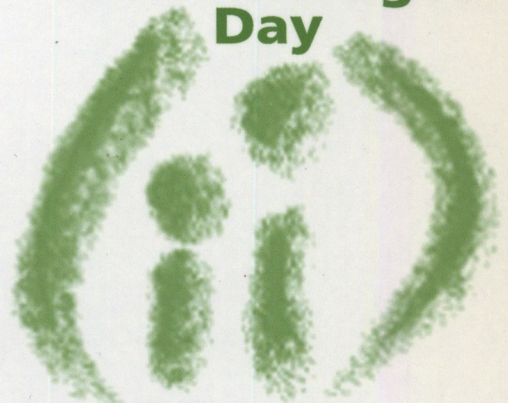
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국가인권위원회



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World Refugee  
Day



20 June



국가인권위원회

National Human Rights Commission of Korea



UNHCR  
The UN Refugee Agency  
유엔난민기구

# 개 회 사

유엔난민기구 한국대표부 대표 제니스 린 마셜

난민보호에 있어서 가장 중요한 파트너인 국가인권위원회와 함께 하는 2009년 세계 난민의 날 기념토론회에 개회사를 하게 되어 큰 영광입니다. 대한민국과 전세계에 있는 강제 이주민들이 직면한 어려움을 매년 기억하는 것은 매우 중요한 일입니다. 우리는 지난 수년동안 국제난민법, 난민인정절차, 무국적자와 관련된 주제로 토론하면서 세계 난민의 날을 기념하였습니다.

올해에는 대한민국에서 난민의 사회적 통합이란 주제를 가지고 토론하게 되어 특별히 기쁘게 생각합니다. 보호가 필요한 사람들이 비호국에서 자신의 인권을 지키고 새로운 인생을 개척할 수 있는 능력을 가질 수 있도록, 한국의 입법 체계를 개선하고 그들의 신분증명 및 난민인정 제도를 개선한다는 점에서 이는 자연스럽고 매우 반가운 성과가 아닐 수 없습니다.

또한, 사회적 통합을 위한 국제적 기준과 난민의 사회적 통합을 위한 국가의 임무뿐만 아니라, 대한민국에 체류 중인 난민이 사회에 적응하기 위해 겪고 있는 고충을 경청하게 된 것을 매우 기쁘게 생각합니다. 난민 당사자의 경험은 우리가 논의하고 있는 문제들을 더욱 생생하게 만들어줄 것이며, 난민들이 사회에 좀더 쉽게 적응할 수 있도록 법과 정책을 수립하고 이를 실천하기 위해 더욱 노력하도록 일깨워 줄 것입니다.

저는 이 토론회가 이처럼 중요한 주제에 대한 풍부한 토론의 장이 될 것을 확신합니다. 오늘 토론에서의 의견 교환과 이를 통한 결론을 통해, 유엔난민기구가 오랫동안 믿어왔던 바와 같이 대한민국이 아시아의 비호국으로서 본보기가 되어줄 것을 희망합니다.

감사합니다.



## Opening Remarks



World Refugee Day Forum 2009. 19 June

National Human Rights Commission of Korea

**Janice Lyn Marshall**, Representative, UN Refugee Agency, Republic of Korea

It is with great pleasure that I assist in opening this discussion commemorating World Refugee Day 2009 with one of our most important refugee protection partners, the National Human Rights Commission of Korea. It is significant every year to remember the challenges faced by displaced people in Korea and all over the world. In past years we have commemorated the day by discussing international refugee law, refugee status determination procedures and statelessness.

This year I am particularly pleased that the topic of this discussion is the social integration of refugees in Republic of Korea. I regard this as a natural and very welcome progression, from improving the legislative framework in Korea and improving the identification and recognition of those in need of protection, to improving the ability of those so recognized to exercise their human rights and rebuild their lives in their asylum country. I am also very pleased that, in addition to hearing about the international standards for social integration and the tasks facing the country in improving access to integration, we will also hear from a refugee staying in Korea about the challenges faced every day in the struggle to integrate into this society. Hearing this in the words of a refugee makes the issues much more real for us and challenges us more strongly to make the needed changes to law, policy and practice which will ease the social integration of refugees.

I am sure the afternoon will see a very rich discussion on this important topic. I hope that today's exchanges and the conclusions drawn from them will bring Korea another step closer to becoming what we at UNHCR have long believed it has the potential to be: a model asylum country in Asia.

Thank you.



## 환 영 사

국가인권위원회 사무총장 **김 칠 준**

먼저 오늘 토론회를 우리 위원회와 함께 준비한 마샬(Janice Lyn Marshall) 유엔난민기구 한국대표부 대표님과 UNHCR 직원 여러분께 깊은 감사드립니다. 또한 의정활동에 바쁘신 와중에도 참석하여 주신 장윤석 국회의원님께도 감사드립니다. 그리고 난민의 인권보호를 위하여 연구하고 활동하시는 각계 전문가분들과 활동가 여러분께도 깊은 감사드립니다.

그동안 유엔난민기구와 우리 위원회는 난민관련 조사관 워크숍, 세계 난민의 날 행사, 난민보호의제 한국어판 출간 등 다양한 사업을 통해 긴밀한 협력관계를 유지하여 왔습니다.

특히 금번 토론회는 국회에 '난민 등의 지위 및 처우에 관한 법률'이 발의된 상태에서 개최하게 되어 더욱 의미 있는 자리가 될 것으로 기대합니다.

오늘날 난민인권보호와 관련해 국제사회가 직면한 새로운 도전들과 보다 복잡해진 국제이주현상은 여러 정부부처, 시민단체, 국제사회가 다각적인 협력체제와 공조속에서만 해결이 가능하다고 할 것입니다.

우리 위원회는 이미 2006. 7 난민의 인권보호 및 개선을 위한 전반적 정책권고를 한 바 있으며, 외국인 체류인구 100만명 시대를 맞이하여 한국사회가 직면하고 있는 다양한 이주인권 현안에 대한 사회적 공감대를 형성하고 관계부처와 문제해결을 위한 유기적 협력기반을 구축하여 왔습니다.

그러나 우리나라는 1992년 ‘난민지위에 관한 협약’과 ‘난민지위에 관한 의정서’에 가입하고, 1993년 출입국관리법과 그 시행령에 난민인정조항을 신설하면서 난민인정 제도를 도입하였지만, 그동안 난민인정심사기간의 장기화, 난민인정자 및 인도적 체류허가자에 대한 체계적인 초기정착지원 프로그램 부재 등 많은 문제점이 있어 온 것이 사실입니다.

이번 토론회에서는 그 동안 우리사회가 고민해 왔던 난민의 안정적 정착을 지원하기 위하여 우리사회가 지향해야 할 정책 방향과 기준, 어떠한 제도적 접근을 통하여 난민에 대한 실질적 사회통합 방안을 마련할 것인가를 모색하는 의미 있는 시간이 될 것입니다.

오늘 이 토론회가 난민의 어려움을 함께 나누고 이해하며, 우리나라에 정착하고자 하는 난민들이 희망을 갖고 우리와 더불어 살아갈 수 있는 방안이 제시되는 시간이 되기를 바라면서 다시 한번 참석자 여러분 모두의 건승을 기원합니다.

감사합니다.

## 축 사

국회의원 황 우 여

안녕하십니까? 한나라당 국회의원 황우여입니다.

우리나라는 1992년에 UN “난민지위에 관한 협약”과 “난민지위에 관한 의정서”에 가입하고, 1993년부터 출입국관리법 내에 난민인정조항을 신설함으로써 난민인정제도를 도입하고 1994년 7월부터 난민지위인정신청을 접수받기 시작하였습니다.

그러나 유엔난민기구(UNHCR)의 집행이사국이 된 2000년까지 단 1명의 난민도 인정하지 않음으로써 2001년 4월 UN “경제적 사회적 문화적 권리에 관한 위원회”로부터 ‘한국에서의 난민인정기준이 지나치게 엄격하다.’고 지적받은 이후 2001년에 1명, 2002년에 1명, 2003년에 12명의 난민을 인정하기 시작하면서 15년간 불과 100여명만이 난민으로 인정받았습니다. OECD회원국으로서 한국의 위상과 세계 10위권의 경제규모를 감안한다면 한국의 난민부담률이 미약한 편이라고 할 것입니다.

뿐만 아니라 난민신청자가 최소한의 생계를 유지할 수 있는 수단이 봉쇄되어 있고, 난민인정을 받은 자의 경우에도 난민의 지위에 관한 협약이 보장하는 권리조차도 누리지 못하는 등 난민 등의 처우에 있어서도 많은 문제점이 노정되고 있습니다.

해마다 난민신청은 급증하고 있는 반면 한국의 난민제도는 정비되어 있지 아니하고 난민신청자 및 인정자에 대한 지원이 사실상 전무하여 이에 대한 많은 비판이 일어나고 있습니다. 이에 한국 난민제도개선에 대한 논의가 시급하고 때마침 법무부, 국회, 시민단체에서 난민법제도개선안이 마련되고 있어 지난해 12월 각계 전문가와 함께 공청회를 마친 후 지난 5월 저를 포함한 23분의 의원님이 뜻을 함께하여 “난민 등의 지위 및 처우에 관한 법률”을 발의하였습니다.

오늘 토론회는 국회에서 발의한 난민법에 대한 사회적 공감대 형성에 매우 중요한 자리가 될 것입니다. 모쪼록 오늘 토론회에서 국내 체류 난민의 기본권 보호와 사회 통합방안을 더 체계적이고 합리적으로 만들어 주시기를 바랍니다.

감사합니다.



## 축 사

국회의원 장 윤 석

안녕하십니까? 한나라당 경상북도 영주시 출신 국회의원 장윤석입니다. 국내외 인권 보호를 위해 애써온 국가인권위원회와 유엔난민기구가 세계난민의 날 기념 토론회를 개최하게 됨을 진심으로 축하드리며, 뜻 깊은 자리에 초대하여 주셔서 감사합니다.

유엔에서는 인종, 종교, 정치, 사상적 이유로 인한 박해를 벗어나 국적국을 떠난 난민을 보호하고 인도적 지원을 하기 위해 지난 1951년 「난민지위에 관한 협약」과 1967년 「난민지위에 관한 의정서」를 채택하였습니다. 우리나라도 1992년 12월 이들 국제협약에 가입하여 「출입국관리법」등 기존의 법령을 통해 난민인정제도를 도입하고 난민의 보호를 위한 제도적인 장치를 마련한 바 있습니다.

그러나 2007년 8월 유엔 인종차별철폐위원회는 한국을 사실상 ‘인종차별국가’로 지정하고 외국인에 대한 차별을 시정할 것을 권고했습니다. 더불어 난민 지위 결정 프로세스의 공정하고 신속한 진행, 난민 신청자 및 인도적 체류허가자에 대한 취업 허용, 그리고 난민의 한국 사회 통합 촉진을 위한 포괄적 조치 도입 등 난민에 대한 인정과 지원강화를 강력히 요구하였습니다.

실상 난민지위인정신청을 접수받기 시작한 1994년부터 올해까지 2,307건의 신청자 중 107명만이 난민인정을 받았습니다. 아직 1차 결정조차 내려지지 않은 난민신청자가 1,000여 명을 넘습니다. 한국에서의 난민인정기준은 지나치게 엄격하고 과정과 절차도 불투명하다는 지적이 있습니다.

인권은 인간이 존중해야 할 최대의 가치입니다. 인권은 국가를 초월하여 천부적으로 존재하는 것입니다. 따라서 국가는 인권을 언제 어느 정도로 보장할 것인지에 대

하여 자의적으로 선택할 권리가 없으며, 국제적으로도 서로 감시와 협력을 통하여 인권향상을 위해 힘써야 합니다.

특히 난민은 ‘인간의 생명과 존엄의 보호’라는 시각에서 체계적이고 현실적인 제도 마련에 힘써야 합니다. 또한 난민인정에 대해 보다 유연하고 포용적이며 시대적 변화의 흐름에 부합하는 정책과 제도를 수립해야 합니다. 그 첫걸음으로 지난 5월 저와 황우여 의원 등 총24명의 의원이 난민법을 공동발의한 바 있습니다. 난민법이 통과될 수 있도록 최선을 다하겠습니다만 여러분들도 난민, 난민신청자, 인도적 지위를 부여 받은 자 등 우리사회 약자들에 대한 관심을 모아주시요. 난민의 처우개선 방안과 연계체계를 모색하는 이 자리가 대한민국이 인권선진국으로 도약하는 초석을 다지는 계기가 되길 기대합니다.

감사합니다.

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# Local Integration of Refugees

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The UN Refugee Agency

Protection Officer Christian Baureder





# Local Integration of Refugees<sup>1)</sup>

Protection Officer Christian Baureder (The UN Refugee Agency)

## I. Introduction

This paper discusses local integration and the integration rights and standards contained in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (hereinafter referred to as the 1951 Convention) and other international human rights instruments, as they apply to recognised refugees.<sup>2)</sup>

The ultimate goal of international protection is to achieve durable solutions for refugees. Local integration is one of the three durable solutions available to refugees. The other two durable solutions are voluntary repatriation, and resettlement. Local integration is based on the assumption that refugees will remain in their country of asylum permanently and find a solution to their plight in that state. Allowing for local integration is an act of states that contributes to burden and responsibility sharing in relation to the international challenge the global refugee situation represents.

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1) The following information is a synopsis of UN High Commissioner for Refugees, *Rights of Refugees in the Context of Integration: Legal Standards and Recommendations*, June 2006, POLAS/2006/02, available at: <http://www.unhcr.org/refworld/docid/44bb9b684.html>; and UN High Commissioner for Refugees, *Conclusion on Local Integration*, 7 October 2005, No. 104 (LVI) - 2005, available at: <http://www.unhcr.org/refworld/docid/4357a91b2.html>.

2) Recognised refugees are refugees whose refugee status has been formerly recognised, either by the UNHCR or a State, through a refugee status determination procedure. Hereinafter, “recognised refugees” will be referred to as “refugees”.

## II. Local Integration in the Refugee Context

In the refugee context, local integration is a dynamic and multifaceted two-way process, which requires efforts by all parties concerned, including a preparedness on the part of refugees to adapt to the host society without having to forego their own cultural identity, and a corresponding readiness on the part of host communities and public institutions to welcome refugees and to meet the needs of a diverse population. Local integration needs to be undertaken in a manner that sustains the viability of local communities affected by the presence of refugees.

Local integration is related to, but also to be distinguished from, self-reliance, as well as local settlement. Self-reliance does not presuppose that refugees will find a durable solution in the country of asylum, but should be viewed (in the context of local integration as a durable solution) as part of a continuum, progressively leading to local integration.<sup>3)</sup> Promoting the self-reliance of refugees from the outset will contribute towards enhancing their protection and dignity, help refugees manage their time spent in exile effectively and constructively, decrease dependency, and enhance the sustainability of any future durable solution. Refugees who integrate locally or who are allowed to become self-reliant can make positive contributions to host countries and communities. Local settlement is situated somewhat between self-reliance and local integration, and is a practice most commonly found in large scale mass refugee influx situations.

The 1951 Convention sets out rights and minimum standards for the treatment of refugees that are geared towards a process of integration and state parties need to implement their obligations under these instruments fully and effectively by facilitating the integration of refugees, including, as far as possible, through facilitating their naturalization. The 1951

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3) Self reliance is defined in the UNHCR *Handbook for Self Reliance*, August 2005, available at: <http://www.unhcr.org/publ/PUBL/44bf40cc2.html>.

Convention therefore provides a useful legal framework for guiding the local integration process. In some contexts host countries may need technical and financial support to adapt and revise their national legal and administrative frameworks to allow refugees equal enjoyment of rights, services and programmes without discrimination.

### **III. The Three Dimensions of Local Integration**

The process of local integration is complex and gradual, comprising three distinct but inter-related legal, economic, and social and cultural dimensions, all of which are important for refugees' ability to integrate successfully as fully included members of society. Refugees understanding of these dimensions may need to be facilitated through proper counselling and advice.

#### **(i) Legal**

The legal dimension of integration entails the host state granting refugees a secure legal status and a progressively wider range of rights and entitlements that are broadly commensurate with those enjoyed by its citizens. Rights include freedom of movement, access to education and the labour market, access to public relief and assistance, including health facilities, the possibility of acquiring and disposing of property, and the capacity to travel with valid travel and identity documents. Realisation of family unity is another important aspect of local integration. Most importantly in the legal dimension, local integration is a process which should lead to permanent residence rights and ultimately, the acquisition of citizenship through naturalization processes.

As a foreigner without the protection of a state or an effective citizenship, a refugee requires certain safeguards, integration measures and rights which are not necessary with

regard to nationals or other foreigners. Refugees, by virtue of being unable to return to their country of origin, are fully dependent on their host country for both protection (against *refoulement*), as well as a durable solution to their plight in the form of a secure legal status and rights which will make possible their successful integration – the completion of which is their naturalisation and acquisition of an effective citizenship. This situation sets them clearly apart from other aliens who, failing integration, can always return to their country of origin.

## (ii) Economic

In the economic dimension of local integration, self-reliance of refugees plays an important part, whereby individuals, households and communities are enabled increasingly to become self-sufficient and can contribute to the local economy. Protection of basic civil, economic and social rights, including freedom of movement and the right to engage in income-generating activities is essential to the achievement of self-reliance of refugees. All states hosting refugees should consider ways in which refugee employment and active participation in the economic life of the host country can be facilitated through education and skills development, and to examine their laws and practices, with a view to identifying and to removing, to the extent possible, existing obstacles to refugee employment. States are also encouraged to recognise the equivalency of academic, professional and vocational diplomas, certificates and degrees acquired by refugees prior to entry into the host country.

## (iii) Social and Cultural

The social and cultural dimension of local integration requires refugees to make conscientious efforts to adapt to the local environment and respect and understand new cultures and lifestyles, taking into consideration the values of the local population, and requires the host community to accept refugees into its socio-cultural fabric. Members of civil society, including non-governmental organisations, can play an important role in fostering an environment conducive to local integration. The implementation of anti-discrimination policies



and awareness-raising activities aimed at combating institutionalised discrimination and at promoting the positive aspects of a diverse society and interaction between refugees, the local population, civil society and refugee organisations are encouraged. Intolerance, racism, xenophobia, including obstacles faced by refugee women, and to foster empathy and understanding through public statements, appropriate legislation and social policies, especially with regard to the special situation of refugees with the aim of allowing refugees to participate actively in the civic, economic, and social and cultural life of the host country. There is a link between education and durable solutions and states, UNHCR and relevant actors should strengthen their efforts to assist host countries in ensuring refugee children's access to education. Family unity and reunification (as referred to Executive Committee Conclusions Nos. 9, 24, 84, and 88) is important as family members can reinforce the social support system of refugees, and in so doing, promote the smoother and more rapid integration of refugee families.

Age and gender sensitive approaches, and attention to participatory and community development processes should permeate all activities aimed at enhancing the capacities of refugees to integrate locally, recognizing changes in gender roles following displacement and the need for different strategies and support to boost the integration capacity of various groups with special needs, such as refugee women, refugee children and older refugees.

## **IV. Integration Rights**

States are responsible for respecting and ensuring the human rights of everyone on their territory and subject to their jurisdiction.<sup>4)</sup> International and regional human rights instruments

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4) For example, in its General Comment No. 15 the Human Rights Committee (HRC) reaffirmed this by stressing that the enjoyment of Covenant rights (that is the International Covenant on Civil and Political Rights) is not limited to citizens of States Parties but must be available to all individuals regardless of nationality or statelessness; thereby including asylum seekers and refugees, for example (The Human Rights

are therefore relevant to both defining and protecting the integration standards for refugees. While the 1951 Convention continues to be the most commonly relied upon and most specific international instrument regarding the rights of refugees and, more specifically, the integration rights of refugees, international human rights law offers an increasingly important complement to the Convention. The 1951 Convention standards have in some cases been superseded by more generous provisions in subsequent international and regional instruments, and states are obliged in such cases to accord refugees the benefit of the highest standard or most generous provision from amongst the international instruments they have ratified.<sup>5)</sup> Some of these international and regional human rights instruments also have the added advantage of addressing specific issues and rights not elaborated upon in the 1951 Convention and making available international enforcement or supervisory mechanisms. In these various ways, human rights instruments often play a significant role both in further defining and protecting refugee integration rights.

In relation to subjects or rights falling under the 1951 Convention it is generally recommended that refugees be afforded the most favourable treatment possible, and more specifically, wherever possible they should be accorded the same treatment as nationals or permanent residents. Refugees, with regard to whom the host country has recognised the need for protection, and who have as a consequence both a lawful and durable stay in the country, should therefore be granted the most favourable treatment of all. Such treatment should facilitate their complete and speedy integration into the host state – an objective which the

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Committee General Comment No. 15: The position of aliens under the Covenant: 11/04/86. U.N. Doc HRI/GEN/1/Rev.1 (1994)). See paragraph 1 in particular, which states: “In general, the rights set forth in the Covenant apply to everyone, irrespective of reciprocity, and irrespective of his or her nationality or statelessness.” This was also reiterated by UNHCR’s Executive Committee (ExCom) in its Conclusion No. 82, where reference is made to the “obligation to treat asylum seekers and refugees in accordance with applicable human rights and refugee law standards as set out in relevant international instruments.” (ExCom Conclusion No. 82 (XLVII) of 1997, on Safeguarding Asylum, para. (vi).

5) In fact, the national Constitutions of some States incorporate international treaties which have been ratified by their Parliaments into national law, and further provide that in the event of any inconsistencies between these international instruments and domestic legislation, the former is to take precedence.

minimum standards of treatment may not be capable of achieving as effectively.

## **The Specific Integration Rights to be Granted to Refugees**

Based on their status, refugees should also be afforded a special place with regard to international and regional human rights instruments. Specifically, refugees should not be subject to the restrictions which are in practice often placed on aliens in relation to certain provisions in human rights instruments, and particularly those relating to socio-economic rights. Refugees should be granted a set of rights which seeks to facilitate their complete and successful integration into their host society, especially in areas where refugees may require special measures. A variety of problems at the legal, administrative or implementation level are often alleviated or avoided altogether by granting refugees a mainstream and durable status, and ensuring that domestic laws provide for a generous regime of rights for refugees.

### **(i) The right to integration assistance<sup>6)</sup>**

Integration assistance assists refugees to integrate into the economic, social and cultural life of the country where the refugee has been provided protection. The process of integration lays the foundations for the refugee to become familiar with the customs, language and way of life of the country of asylum. Refugees are not expected to abandon their own culture and way of life in the process. Integration will be assisted through language and vocational courses, lectures on national institutions and culture, and by creating opportunities for stimulating contacts between refugees and the host population.

### **(ii) Legal residency status and related regime of rights**

Residency status, while not explicitly mentioned in the 1951 Convention or other international instruments, is a critical factor in the integration process affecting the regime of

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6) Main international standards: 1951 Convention Article 34 Naturalization; Statute of the UNHCR 2.

rights applicable to refugees, as well as their prospects for establishing a definitive and permanent home and assuming their role as full and equal members of society. Granting refugees a durable residency status is a concrete measure facilitating integration.

### (iii) Employment: Wage earning employment, self employment, liberal professions<sup>7)</sup>

Refugees do not have the benefit of legal or social protection of another state or of seeking an alternative residence elsewhere. The right to work, therefore, is a critical aspect of the process of ensuring refugees livelihood and integration into the host society. Refugees should thus be afforded full protection in relation to the right to work.

### (iv) Housing Rights<sup>8)</sup>

Everyone, including refugees, has the right, without discrimination, to an adequate standard of living, including the specific right to adequate housing and the right to live somewhere in security, peace and dignity.

### (v) Education: Primary, Secondary, Higher Education and Language and Vocational Training<sup>9)</sup>

All refugee children must benefit from primary education provided by public authorities that is of a satisfactory quality. Refugees should be granted as favourable treatment as

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7) Main international standards: 1951 Convention Articles 17 - 19; International Covenant on Economic, Social and Cultural Rights (ICESCR) Article 6; Universal Declaration of Human Rights (UDHR) Article 23; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Articles 11 & 14; International Covenant on the Elimination of All Forms of Racial Discrimination (ICERD) Article 5.

8) Main international standards: 1951 Convention Article 21; ICESCR Article 11; UDHR Article 25; CEDAW Article 14; Convention on the Rights of the Child (CRC) Article 27; ICERD Article 5.

9) Main international standards: 1951 Convention Article 22; UDHR Article 26; ICESCR Article 13; CRC Article 28; CEDAW Article 10; ICERD Article 5; UNESCO Convention against Discrimination in Education Article 1.



possible with regard to education beyond the elementary level (including general higher education as well as vocational training), and at minimum states must grant them at least the same treatment as other foreigners in the same circumstances.

#### (vi) Public Relief and Health Care<sup>10)</sup>

Article 23 of the 1951 Convention contains a mandatory provision to ensure that refugees are entitled to benefit from the national social assistance and welfare schemes enjoyed by nationals.

#### (vii) Social Security and Labour Legislation<sup>11)</sup>

Refugees are entitled to the basic labour rights of legally employed workers, and to state benefits such as unemployment, old-age or disability benefits which are covered by social security systems.

#### (viii) Family Unity and Reunification<sup>12)</sup>

The right to family unity stems from the universal recognition of the family as the fundamental unit of society, which is entitled to protection and assistance. It is a right that is of particular importance to refugees whose dislocation often involves the separation of families, and for whom family unity is a key means of protection for individual family members. Maintaining and facilitating family unity helps to ensure physical care, protection,

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10) Main international standards: 1951 Convention Article 23; ICESCR Article 11; ICCPR Article 6; CRC Articles 24 and 27; CEDAW Article 12; ICERD Article 5.

11) Main international standards: 1951 Convention Article 24; ICESCR Articles 7, 9, and 10; CEDAW Article 11; CRC Articles 26 and 32; ICERD Article 5.

12) Main international standards: Final Act of the 1951 United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons (Appendix to the 1951 Convention Part IV B. Principle of Family Unity); ICCPR Article 17; CEDAW Article 16; CRC Articles 9 and 10; ExCom Conclusion No. 24 (XXXII), 1981 on Family Reunification; UNHCR Handbook on Procedures and Criteria for Determining Refugee Status Chapter VI The Principle of Family Unity.

emotional well-being and economic support of individual refugees. The right to family life is thus a key component for the successful integration of refugees in their new society.

#### (ix) Identity Papers and Convention Travel Document<sup>13)</sup>

Refugees must be issued with a provisional document stating their identity to enable them to conform to any laws and regulations that may require inhabitants of a country to carry such papers. The issuance of such documents is imperative where the refugee does not possess a valid travel document. Such documents must be issued in a timely and accurate manner when they will be required for the refugee to prove residency and to access basic rights. State parties have a strict obligation to issue a travel document to every refugee in their territory who wishes to travel abroad.

#### (x) Right of Access to Courts and Related Judicial Guarantees<sup>14)</sup>

Refugees enjoy unimpeded access to the courts of law on the territory of all contracting states to the 1951 Convention regardless of their place of ordinary residence. Refugees are to receive treatment on the same level as nationals with regard to free legal assistance available under state-sponsored schemes.

#### (xi) Property Rights<sup>15)</sup>

Refugees may enjoy property rights regardless of the type of residence status they may hold and even if they do not have their residence where they wish to acquire property. The

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13) Main international standards: 1951 Convention Articles 27 and 28; ExCom Conclusion No. 13 (XXIX), 1978 Travel Documents for Refugees; ExCom Conclusion No. 49 (XXXVIII), 1987 Travel documents for Refugees; ExCom Conclusion No. 91 (LII), 2001 Registration of Refugees and Asylum Seekers.

14) Main international standards: 1951 Convention Article 16; UDHR Article 10; ICCPR Articles 14 and 26; CEDAW Article 15; CRC Article 40; ICERD Articles 5 and 6.

15) Main international standards: 1951 Convention Article 13; UDHR Article 17; ICCPR Article 26; CEDAW Articles 15 and 16; ICERD Article 5.

rights cover the acquisition of moveable and immovable property to include other rights such as mortgaging. The term property is to be understood in the broad sense as including tangible property as well as property rights, such as bank accounts.

#### (xii) Freedom of Residence and Movement<sup>16)</sup>

There is a mandatory obligation on states to grant refugees the right to choose their place of residence and the right to freedom of movement. Refugees may be subject to restrictions applied to aliens generally, but states may not impose restrictions on freedom of movement that are applicable only to refugees.

#### (xiii) Selected Civil and Political Rights : Freedom of Expression, Assembly and Association<sup>17)</sup>

The right to hold and express a political opinion or engage in political activities is a right which is protected in international human rights law, and is, in many cases, considered by refugees as fundamental to their human dignity. Many refugees have been persecuted and forced to flee their country of origin precisely because of their political activities or beliefs. Political rights, including being able to express one's political opinion and engage in non-violent political activities is thus essential to their personal identity and self-determination.

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16) Main international standards: 1951 Convention Articles 21 and 26; UDHR Article 13; ICCPR Article 12; ICESCR Article 11; CRC Articles 10 and 27; CEDAW Article 15; ICERD Article 5.

17) Main international standards: 1951 Convention Articles 2 and 7; ICCPR Articles 2, 3, 19, 22, 27; CEDAW Article 3; ICERD Article 5.

#### (xiv) Naturalisation<sup>18)</sup>

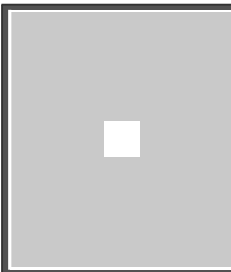
Granting national citizenship is the most durable and often the most desirable long-term solution for refugees wishing to end their refugee status and integrate in their host country. While refugee status offers certain guarantees, refugees continue to be vulnerable in that they lack effective nationality. A refugee can neither return to his or her country of origin, nor rely on the comprehensive state protection normally attached to citizenship, even if granted certain rights such as the right of stay and protection from *non-refoulement* by the country of asylum. From a legal point of view, naturalisation represents the objective completion of the integration process into a new society, the right to full legal and diplomatic protection of an effective nationality. From a sociological perspective, it also indicates the existence of a subjective attachment and commitment to the host country on the part of the refugee.

## VI. Conclusion

Granting refugees a set of rights enables the facilitation of complete and successful integration of refugees into their host society, especially in areas where refugees may require special measures. The 1951 Convention and other international human rights instruments provide both the integration standards for refugees, and the legal framework for this regime of rights. Implementing these rights into the domestic context will enable states to meet their international obligations towards refugees and ensure the best possible conditions for refugee integration, enabling the rapid and complete integration of refugees into the host state.

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18) Main international standards: 1951 Convention Article 34; Statute of the Office of the United Nations High Commissioner for Refugees Article 2(e); ICCPR Article 24; CRC Article 7; CEDAW Article 9; other standards and practices of interest: Convention relating to the Status of Stateless Persons, Convention on the Reduction of Statelessness, Council of Europe Recommendation 564 (1969) on the Acquisition by Refugees of Nationality of their Country of Residence.



## 난민의 현지 통합<sup>1)</sup>

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### I. 도 입

이 글은 난민자격을 얻은 이들에게 적용되는 1951년 난민의 지위에 관한 협약과 1967년 난민의 지위에 관한 의정서 (아래에서는 두 문서를 함께 “1951년 협약”으로 지칭한다.) 및 기타 국제 인권 조약에 따른 현지 통합과 통합 권리 및 기준에 대해 논한다.<sup>2)</sup>

국제적 보호의 궁극적인 목적은 난민을 위한 영구적인 해결책을 얻는 것이다. 현지 통합은 난민에게 제공될 수 있는 세 가지 영구적 해결책 중 하나로, 다른 두 가지로는 출신국으로의 자발적 귀환과 재정착이 있다. 현지통합은 난민이 비호국에 영구적으로 남아 해당 국가에서 이들이 직면하는 어려움에 대한 해결책을 찾는 것을 가정한다. 현지 통합을 허용하는 것은 세계적 난민상황이 제시하는 국제적 도전의 고통과 책임을 공유하는 국가적 행위라 할 수 있다.

1) 아래 정보는 유엔난민기구의 *통합의 관점에서 본 난민의 권리: 법적 기준과 권고안*, 2006년 6월, POLAS/2006/02, 웹사이트: <http://www.unhcr.org/refworld/docid/44bb9b684.html> 그리고 유엔난민기구, *현지 통합에 관한 집행위원회 결정*, 2005년 10월 7일, No. 104 (LVI) - 2005, 웹사이트: <http://www.unhcr.org/refworld/docid/4357a91b2.html> 의 개요이다.

2) 인정받은 난민이란 유엔난민기구나 국가에 의해 난민 지위 결정 절차를 통해 공식적으로 난민지위를 인정받은 난민이다. 이 문서에서는 “인정받은 난민”을 “난민”으로 지칭한다.

## II. 난민 상황에서의 현지 통합

난민의 관점에서, 현지 통합은 모든 관련 당사자들의 노력이 요구되는 역동적이면서도 다면적인 쌍방향 과정이다. 여기에는 난민이 자신들 고유의 문화적 정체성을 포기할 필요 없이 거주사회에 적응하기 위해 준비를 하는 것과 이런 난민을 받아들인 지역 사회와 공공기관이 그들을 환영하고, 다양한 사람들의 필요를 충족시키기 위해 이에 상응하는 준비를 갖추는 것이 포함된다. 현지 통합은 난민의 체재로 인해 영향 받은 현지 지역 사회의 생존력을 지속시킬 수 있는 방식으로 진행되어야 할 필요가 있다.

현지 통합은 자립 및 현지 정착과 관련이 있긴 하지만 차별되는 개념이다. 자립은 난민이 피난국에서 영구적 해결책을 찾을 것을 전제하지 않으나 (영구적 해결책으로써의 현지 통합 문맥에서) 지속적이고도 점진적으로 현지 통합으로 귀결되는 과정의 일부로 보아야 한다.<sup>3)</sup> 시초부터 난민의 자립을 증진시키는 것은 그들의 보호와 존엄성을 향상 시키는데 기여하고, 난민이 망명지에서의 시간을 효과적이면서도 건설적으로 관리할 수 있도록 도와주고, 의존성을 줄여주며, 향후 도출한 영구적 해결책의 지속성을 강화시켜 준다. 현지에 통합되거나 혹은 자립하도록 허용을 받은 난민은 비호국과 지역사회에 긍정적인 기여를 할 수 있다. 현지 정착은 자립과 현지통합의 중간 개념으로 대규모 난민 유입 발생 상황에서 일반적으로 발견되는 현상이다.

1951년 협약은 통합의 과정을 밟고 있는 난민 처우에 대한 난민의 권리와 최소 기준을 제시하고 있고, 이 협약에 근거 당사국은 가능한 범위내에서 이들의 귀화를 촉진하는 등 난민의 통합을 용이하게 함으로써 자국의 책무를 완전하고도 효과적으로 이수해야 한다. 그러므로, 1951 년 난민협약은 현지 통합 과정을 안내하는 유용한 법체계를 제공한다. 일부의 경우, 비호국은 동등한 권리와 서비스 그리고 프로그램을 난민에게 차별 없이 제공하기 위해 자국의 국내법 및 행정체계를 변경하거나 수정해야 하고, 이를 위해 기술 및 재정 지원을 받아야 할 필요가 있을 수 있다.

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3) 자립에 대한 정의는 유엔난민기구 *자립에 대한 핸드북*, 2005년 8월, 웹페이지: <http://www.unhcr.org/publ/PUBL/44bf40cc2.html>에 있다.

### III. 현지 통합의 세 가지 영역

현지 통합은 세 가지의 서로 다르지만 법적, 경제적, 사회적, 문화적으로 상호 연관성을 가진 요소로 구성된 복잡하고도 점진적인 과정이다. 이 세가지 요소는 난민이 사회의 완전한 구성원으로써 성공적으로 통합되는데 있어 중요하다. 이런 요소에 대한 난민의 이해는 적절한 상담과 조언을 통해 증진될 필요가 있을 것이다.

#### (i) 법률적

통합의 법률적 차원은 비호국이 난민에게 안전한 법적 지위와 자국민들이 영유하고 있는 수준에 비견할 수 있는 권리와 혜택을 점진적으로 보다 광범위하게 부여하는 것을 포함한다. 여기에는 이동의 자유, 교육 및 노동 시장에 대한 접근, 보건 시설을 포함한 공공 구호 및 지원에 대한 접근, 재산 획득과 처분의 가능성, 그리고 유효한 여행증명서 및 신분증을 소지하고 여행할 수 있는 자격 등의 권리가 포함된다. 가족결합의 실현은 현지 통합의 또 다른 중요한 측면이다. 법률적 측면에서 가장 중요한 것은 현지 통합이 영주권과 궁극적으로는 귀화의 과정을 통해 국적을 획득하는 것으로 귀결되어야 하는 과정이라는 것이다.

한 국가의 보호 혹은 유효한 시민권이 없는 외국인으로써, 난민은 현지 국민 혹은 다른 외국인들에게는 필요 없는 일종의 보호장치, 통합 조치, 그리고 권리가 필요하다. 출신국으로 돌아갈 수 없는 난민들은 (강제송환에 대한) 보호 및 그들의 고통에 대한 영구적 해결책에 있어 비호국에 전적으로 의존하고 있다. 귀화와 유효한 국적의 획득을 통해 완결되는 성공적 통합은 안전한 법적 지위 및 권리 부여로 가능해진다. 이런 상황은 통합에 실패하면 언제든지 출신국으로 돌아갈 수 있는 다른 외국인과 난민을 구별 짓는다.

#### (ii) 경제적

현지 통합의 경제적 차원을 보면, 난민의 자립은 중요한 부분을 차지한다. 개인과 가구 그리고 지역사회는 자급자족도의 증진과 함께 지역경제에 이바지할 수 있게 된다. 이

동의 자유, 수입창출활동에 참여할 권리를 포함한 기본적 시민권 및 경제적, 사회적 권리를 보호하는 것은 난민의 자립 달성에 중요하다. 난민을 받아들인 모든 국가는 난민의 고용과 비호국의 경제생활에 대한 그들의 적극적 참여가 교육과 기술개발을 통해 촉진될 수 있고, 가능한 범위 내에서 난민 고용에 장애가 될 수 있는 기존의 요소들을 파악하고 제거할 수 있도록 그들의 법과 관행을 검토하는 방법을 고려해야 한다. 국가들은 또한 난민이 비호국으로 입국하기 전에 획득했던 학문적, 전문적, 직업적 졸업장 및 인증서 그리고 학위를 인정하도록 권장 받고 있다.

### (iii) 사회, 문화적

현지 통합의 사회, 문화적 요소는 난민이 현지 주민의 가치를 고려하면서, 현지 환경에 적응하고, 새로운 문화와 생활방식을 존중하고 이해하고자 하는 의식적 노력을 기울일 것을 요구하고 있다. 그리고, 이는 난민을 받아들인 지역사회가 난민을 사회 문화적 구조안으로 수용할 것을 요구하고 있다. 비정부 단체를 포함한 시민 사회의 구성원은 현지 통합에 도움이 되는 환경을 조성하는 데 중요한 역할을 담당할 수 있다. 제도화된 차별을 퇴치하고, 다양한 사회의 긍정적인 측면과 난민과 현지 주민, 시민 사회 그리고 난민 기관간의 상호작용을 증진하고자 마련된 반차별 정책과 인식 고취활동의 실행이 권장된다. 그 목적은 난민이 비호국의 시민, 경제, 사회, 문화 생활에 적극적으로 참여할 수 있도록 하고, 난민 여성이 직면하는 장애를 포함 무관용, 인종차별주의, 외국인 혐오증을 퇴치하고, 특히, 난민의 특별한 상황과 관련해, 공식성명 및 적절한 법률제정과 사회정책을 통해서 이에 대한 공감대를 형성하고, 이해를 증진시키기 위함이다. 교육과 영구적 해결책 사이에는 연결 관계가 있다. 각 국가 및 유엔난민기구(UNHCR)와 관련 당사자들은 난민의 자녀들이 교육을 받을 수 있도록 보장하기 위해 비호국에 대한 지원을 강화해야 한다. 가족 결합과 재결합(집행위원회 결정Nos. 9, 24, 84, 그리고 88에서 언급되었듯이)은 난민의 사회 지원 시스템을 강화하는데 중요하고, 그렇게 함으로써 난민 가족의 통합을 더욱 순조롭고 빠르게 할 수 있다.

나이 및 성별을 고려한 접근 방식과 참여적 지역사회 개발 과정에 대한 관심은 난민



의 현지 통합 능력을 함양시키고자 하는 모든 활동에 적용되어야 하고, 이주 후 성역할의 변화가 있다는 점과 난민 여성, 아동, 노인층과 같이 특수한 요구를 갖고 있는 다양한 그룹의 통합 능력을 진작시키기 위해선 다른 전략과 지원이 필요하다는 것을 인지해야 한다.

## IV. 통합권

국가는 자국 영토 및 사법권에 있는 모든 사람의 인권을 존중하고 보장할 책임이 있다.<sup>4)</sup> 그러므로 국제 및 지역 인권 조약은 난민의 통합기준을 정의하고 보호하는데 관련이 있다. 1951년 난민협약은 난민의 권리, 좀 더 구체적으로 난민의 통합권과 관련, 가장 일반적으로 참고하고 있는 가장 구체적인 국제 조약이나, 이 협약을 보완해 주는데 있어 국제 인권법의 중요성이 점점 커지고 있다. 1951년 협약의 기준은 일부의 경우 그 이후 만들어진 국제 및 지역 조약의 관대한 조항으로 대체되고 있고, 국가들은 그러한 경우 자국이 비준한 국제 조약중에서 최고수준의 혹은 가장 관대한 혜택을 난민에게 부여할 의무를 가진다.<sup>5)</sup> 이들 국제 및 지역 인권조약의 일부는 1951년 협약에는 상술되지 않은 구체적 문제와 권리를 다루고 있다는 점과 국제시행 혹은 감독 메커니즘을 가용하게 했다는 점에서 추가적 장점을 가지고 있다. 이런 다양한 방식으로, 인권 조약은 종종 난민의 통합권을 보다 잘 정의하고 보호하는데 있어 중요한 역할을 담당하고 있다.

1951년 협약에 종속하는 문제나 권리와 관련해선, 난민이 가능한 가장 우호적인 대우

4) 예를 들면, 일반논평(General Comment) No. 15 에서 인권위원회(HRC)는 규약권(이는 시민적 및 정치적 권리에 대한 국제규약이다) 이라는 것은 국가 당사국의 시민에 국한되지 않고, 국적과 무국적에 상관없이 모든 개인이 향유할 수 있는 것이어야 한다고 강조함으로써 이를 재확인하고 있다.; 그러므로, 망명 신청자들과 난민을 포함. 예를 들면(인권위원회 일반논평No. 15: 규약에 따른 외국인의 지위: 11/04/86. U.N. Doc HRI/GEN/1/Rev.1 (1994)). 특히 1문단을 보면, 다음과 같다: “일반적으로, 규약에 나와있는 권리는 상호주의와 상관없이, 그리고 그들의 국적과 무국적에 상관없이 만민에게 적용된다.” 이는 또한 유엔난민기구 집행위원회(ExCom) 결정 제82호에서 강조되었다. 여기서는 “관련 국제 조약에 기술된 것처럼 비호신청자와 난민을 적용가능한 인권 및 난민법 기준에 따라 처우해야 할 책임.” (ExCom 결정 No. 82 (XLVII) of 1997, 비호에 대한 보장책, para. (vi)을 언급하고 있다.

5) 사실, 일부 국가의 헌법에선 자국 국회의 비준을 받아 법제화된 국제 조약을 포함하고 있고, 국제 규약과 국내 법사이에 차이가 있을시 국제 규약이 우선시 된다는 것을 명시하고 있기도 하다.

를 받을 수 있도록 해줄 것을, 좀 더 구체적으로는, 가능한 그 나라 국민이나 영주권자와 동일한 대우를 받을 수 있도록 해줄 것을 권고하고 있다. 그러므로, 비호국이 보호의 필요성을 인정했고, 그 결과로 그 국가에서 법적, 지속적 체류권을 가지고 있는 난민은 가장 우호적인 대우를 부여 받을 수 있어야 한다. 이러한 대우는 비호국내에서 난민의 빠르고 완전한 통합을 촉진할 것이다. 이는 난민에게 최소 기준의 대우만을 해줄 경우 효과적으로 달성할 수 없는 목표이다.

## 난민에게 부여되는 구체적 통합의 권리

그들의 지위에 근거, 난민은 국제 및 지역 인권 규약과 관련 특별한 위치를 부여 받아야 한다. 난민은 인권 규약의 특별 조항과 관련, 특히 사회 경제적 권리와 관련, 외국인들에게 흔히 관행적으로 부여되는 제약에 종속되어서는 안된다. 난민은 그들의 이주사회로의, 특히 특별한 조치를 필요로 할 수 있는 지역에서의 완전하고도 성공적인 통합을 촉진시키고자 하는 일련의 권리를 부여 받아야 한다. 법률적, 행정적 혹은 실행적 차원에서의 다양한 문제점들은 종종 난민에게 주류의 지속적 지위를 부여하고 국내법이 난민에게 관대한 권리체제를 제공한다는 것을 보장함으로써 완화하거나 예방할 수 있다.

### (i) 통합지원의 권리<sup>6)</sup>

통합지원은 난민이 보호를 받고 있는 국가의 경제, 사회, 문화생활 속으로 편입되는 것을 도와준다. 통합의 과정은 난민이 비호국의 관습, 언어, 그리고 생활방식에 친숙해질 수 있는 기반을 마련해준다. 난민은 그 과정에서 자신들의 문화나 생활방식을 포기하지 않아도 된다. 통합은 언어와 직업훈련과정, 국가 제도 및 문화에 대한 강연을 통해 그리고 난민과 비호국 국민간의 활발한 상호작용 기회를 마련함으로써 원활해질 수 있다.

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6) 주요 국제 기준: 1951 협약<sup>34</sup>조 귀화; 유엔난민기구 규정<sup>2</sup>.

## (ii) 법적 거주 지위 및 관련 권리체제

1951년 협약이나 기타 국제 규약에는 명시되지 않았으나, 체류 지위는 통합과정에 중요한 요소로써, 난민에게 적용 가능한 권리체제 및 난민이 확정적이고 영구적인 가정을 꾸리고, 사회의 완전하고도 동등한 일원으로써 역할을 담당하는 전망에도 영향을 미친다. 난민에게 영구적인 거주 지위를 부여하는 것은 통합을 촉진하는 구체적인 조치다.

## (iii) 고용: 임금고용, 자영업, 자유직업)

난민은 다른 국가의 법적 사회적 보호나 기타지역에 대안적 체류를 추구할 수 있는 혜택을 갖지 못한다. 그러므로 근로의 권리는 난민 생계 및 거주 사회로의 통합을 보장하는 과정의 중요한 측면이다. 그러므로 난민은 근로의 권리와 관련한 전적인 보호를 부여 받아야 한다.

## (iv) 주거의 권리<sup>8)</sup>

난민을 포함한 만인은 차별 없이 적절한 주거 공간을 가질 구체적 권리와 안전하고 평화롭고 존엄성 있게 어디에선가 살 수 있는 권리 등 적절한 삶의 수준을 누릴 권리를 가진다.

## (v) 교육: 초등, 중등, 고등 교육과 언어 및 직업 훈련<sup>9)</sup>

모든 난민 아동은 공공당국이 제공하는 만족할 만한 수준의 초등교육의 혜택을 누릴 수 있어야 한다. 난민은 (일반적 고등교육과 직업훈련을 포함) 초등교육의 수준을 넘어

7) 주요 국제 기준: 1951 협약<sup>17</sup> 19조; 경제, 사회, 문화적 권리에 대한 국제 규약(ICESCR) 6조; 세계인권선언(UDHR) 23조; 여성차별철폐협약(CEDAW) 11 및 14조; 모든 형태의 인종차별 철폐에 관한 국제협약 (ICERD) 5조.

8) 주요 국제 기준: 1951 협약<sup>21</sup>조; ICESCR 11조; UDHR 25조; CEDAW 14조; 아동권리 협약(CRC) 27조; ICERD 5조.

9) 주요 국제기준: 1951 협약<sup>22</sup>조; UDHR 26조; ICESCR 13조; CRC 28조; CEDAW 10조; ICERD 5조; UNESCO 교육상의 차별금지 협약<sup>1</sup>조.

서는 교육과 관련해서 가능한 가장 우호적인 대우를 부여 받아야 하고, 적어도 국가는 동일한 상황에 처한 다른 외국인들이 받는 대우와 최소한 동일한 대우를 난민에게 해주어야 한다.

#### (vi) 공공 구제와 보건<sup>10)</sup>

1951년 협약의 23조는 난민이 비호국의 국민이 누리는 국가적 사회 지원과 복지 혜택을 받을 권리가 있다고 보장하는 의무 조항을 포함하고 있다.

#### (vii) 사회 보장과 노동 입법<sup>11)</sup>

난민은 법적으로 고용된 근로자의 기본적 노동권을 가지고 있고 사회보장 시스템이 부담하는 실업, 고령 혹은 장애와 관련된 국가 혜택을 받을 권리가 있다.

#### (viii) 가족 결합과 재결합<sup>12)</sup>

가족의 결합권은 보호와 지원을 보장받는 사회의 근본 단위로서 가족을 보편적으로 인식하는 데서 비롯한다. 이 권리의 중요성이 더욱 부각되는 이유는 난민의 이주가 일반적으로 가족의 이별을 낳고, 이런 사람들에게 가족의 결합은 각 가족 일원의 보호에 있어 중요한 수단이기 때문이다. 가족 결합을 유지하고 촉진하는 것은 개별 난민의 물리적 보살핌과 보호, 정서적 안녕 그리고 경제적 지원을 보장하는데 도움이 된다. 그러므로 가족 생활의 권리는 난민의 새 사회로의 성공적인 통합을 위해 중요한 요소이다.

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10) 주요 국제 기준: 1951 협약23조; ICESCR 11조; ICCPR 6조; CRC 24조 및 27조; CEDAW 12조; ICERD 5조.

11) 주요 국제 기준: 1951 협약24조; ICESCR 7, 9 및 10조; CEDAW 11조; CRC 26 및32조; ICERD 5조.

12) 주요 국제 기준: 1951년 유엔 난민 및 무국적자 지위에 관한 전권회의의 마지막 장 (1951년 협약 4장 B. 가족 결합의 원칙에 대한 부속서); ICCPR 17조; CEDAW 16조; CRC 9 및10조; ExCom 결정No. 24 (XXXII), 1981 가족 재결합; UNHCR 난민지위 인정기준 및 절차 편람, 6장, 가족결합의 원칙.

### (ix) 신분 증명서 및 여행 증명서(CTD)<sup>13)</sup>

난민은 거주 국가의 주민들이 소지하고 다녀야 하는 문서에 대해 명시하고 있는 모든 법과 규제를 준수하기 위해선 그들의 신분을 표기하는 문서를 발행 받아야 한다. 그런 문서의 발행은 난민이 유효한 증명서를 소유하고 있지 않은 곳에서 매우 중요하다. 그런 문서가 난민의 주거 증명이나 기본 권리 행사시 필요하다면, 이런 문서는 시의적절하고 정확하게 발행되어야 한다. 협약 당사국은 해외에 여행하기를 희망하는 자국 영토내의 모든 난민에게 여행증명서를 발급할 엄격한 의무가 있다.

### (x) 재판 청구권 및 관련 재판 보장권<sup>14)</sup>

난민은 그들의 일반적인 거주 장소에 상관없이 1951년 협약에 조인한 모든 국가의 영토내에서 무제한적인 재판 청구권을 가진다. 난민은 거주 국가의 국민과 동일한 수준으로 국가 지원 프로그램에 의거 가용한 모든 무료 법률 지원을 받을 수 있어야 한다.

### (xi) 재산권<sup>15)</sup>

난민은 그들이 가지고 있는 주거의 종류와 관계없이, 그리고 설사 그들이 재산을 획득하기 희망하는 곳에 주거지를 가지고 있지 않다고 하더라도 재산권을 향유할 수 있다. 이 권리는 동산 및 부동산의 획득을 포함하고 저당권등 기타 권리를 포함한다. 재산이라는 단어는 유형재산뿐 아니라 은행계좌와 같은 재산권을 포함하는 광범위한 의미로 이해된다.

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13) 주요 국제 기준: 1951 협약 27 및 28조; ExCom 결정 No. 13 (XXIX), 1978 난민 여행증명서; ExCom 결정 No. 49 (XXXVIII), 1987 난민 여행증명서; ExCom 결정 No. 91 (LII), 2001 난민과 비호신청자 등록.

14) 주요 국제기준: 1951 협약16조; UDHR 10조; ICCPR 14및 26조; CEDAW 15조; CRC 40조; ICERD 5조 및 6조.

15) 주요 국제기준: 1951 협약13조; UDHR 17조; ICCPR 26조; CEDAW 15 및 16조; ICERD 5조.

## (xii) 주거 및 이동의 자유<sup>16)</sup>

국가는 난민에게 주거 장소를 선택할 수 있는 권리와 자유롭게 이동할 수 있는 권리를 부여할 강제적 의무가 있다. 난민은 일반적 외국인에게 적용되는 제약을 받을 수 있으나, 국가는 난민에게만 적용되는 이동의 자유에 대한 제약을 가할 수 없다.

## (xiii) 시민권 및 정치권 중 일부 : 표현, 집회 그리고 결사의 자유<sup>17)</sup>

정치적 의견을 표현하고 정치적 활동에 참여하는 권리는 국제 인권법에서 보호되는 권리이고, 많은 경우 난민에게 있어선 그들의 인간적 존엄성을 지키는 근본으로 간주되는 권리이다. 많은 난민이 바로 그들의 이러한 정치적 활동과 신념 때문에 박해를 받았고 출신국을 떠나야만 했다. 그러므로 자신의 정치적 견해를 피력하고, 비폭력적인 정치 활동에 참여하는 등의 정치적 권리는 난민의 개인 정체성과 자율에 중요하다.

## (xiv) 귀화<sup>18)</sup>

시민권을 부여하는 것은 가장 영구적이면서도 종종 그들의 난민 지위를 끝내고 비호국에 편입되고 싶어하는 난민에게 가장 바람직한 장기적 해결책이다. 난민 지위가 일부 보장을 제공하는 반면, 난민은 유효한 국적이 없다는 것 때문에 항상 취약하다. 난민은 출신국으로 돌아갈 수 없을 뿐만 아니라, 비호국으로 부터 강제송환 금지의 보호와 거주 의 권리와 같은 일종의 권리를 부여 받는다 해도, 비호국의 시민들에게 일반적으로 부여되는 포괄적 국가의 보호에 의존할 수 없다. 법률적 측면에서 볼때, 귀화는 새로운 사회로의 통합에 있어 객관적 완결을 의미하고, 유효한 국적에 대한 완전한 법적, 외교적 보호에 대한 권리를 의미한다. 사회적 측면에서 볼때, 귀화는 또한 난민의 비호국에 대한 주관적 결함과 서약을 나타낸다.

16) 주요 국제기준: 1951 협약<sup>21</sup> 및 26조; UDHR 13조; ICCPR 12조; ICESCR 11조; CRC 10 및 27 조; CEDAW 15 조; ICERD 5조.

17) 주요 국제기준: 1951 협약<sup>2</sup> 및 7조; ICCPR 2, 3, 19 22, 27조; CEDAW 3조; ICERD 5조.

18) 주요 국제기준: 1951 협약 34조; 유엔 고등판무관 규정 2(e)조; ICCPR 24조; CRC 7조; CEDAW 9 조; 다른 관련 기준과 관행: 무국적자 지위에 관한 협약, 무국적 감소에 관한 협약, 난민의 거주국 국적획득에 관한 유럽회의 권고안564 (1969).

## VI. 결 론

난민에 대한 일련의 권리 부여는 그들이 거주사회에 완전하고도 성공적으로 통합될 수 있도록 해주고, 특히 난민이 특별한 조치를 필요로 하는 지역에서, 그 과정을 촉진시켜준다. 1951년 협약과 다른 국제 인권 조약은 난민에 대한 통합 기준 뿐 아니라 이 권리에 대한 법적 체계를 마련해준다. 이런 권리를 국내 상황에 실행함으로써 국가들은 난민에 대한 그들의 국제적 의무를 다하게 되고, 이는 난민의 통합에 필요한 최고의 환경을 보장해주고, 난민이 비호국에서 신속하고 완전하게 통합될 수 있도록 해줄 것이다.



# 난민의 사회통합을 위한 개선 과제와 방향

- 강제 이주민의 성격을 고려한  
권리 중심적 접근 -

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김 종 철

(변호사, 법무법인 소명)





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- 강제 이주민의 성격을 고려한 권리 중심적 접근 -

김 종 철 (변호사, 법무법인 소명)

## 1. 무슨 통합?

통합이라는 말을 일단 정의 해 놓고 논의를 시작하는 것이 좋을 듯합니다. 저는 통합을 자신의 문화 정체성을 포기하지 않으면서 한 사회의 핵심 가치를 수용하면서 적응하는 것이라고 정의하고 싶습니다. 정의를 해 보았지만 문화 정체성은 무엇이고 우리 사회의 핵심 가치는 무엇인지 언뜻 이해가 되지 않습니다. 더 큰 문제는 통합 자체가 좋은 것인가 하는 것 입니다. 그러나 일단 우리 토론회의 주제가 난민의 사회통합을 전제로 하고 있으므로 통합의 의미에 대해서는 이 정도로 해두고 넘어가면 좋겠습니다.

그런데 문제가 있습니다. 난민의 사회통합에 대해 별도의 논의가 필요한가 하는 것입니다. 난민도 결국 이주외국인이므로 이주외국인의 사회 통합 논의로 충분하지 않은가 하는 의문이 듭니다.

## 2. 난민의 사회통합에는 특별한 것이 있다?

난민 역시 이주외국인인 것은 사실이나 그 이주가 강제된 것이라는 점에서 큰 차이가 있습니다. 그렇기 때문에 난민은 국적국을 떠나 우리 사회에 도착하기 전까지 고문, 성폭행 등으로 인한 극심한 고통을 경험한 사람이 많습니다. 또한 난민은 국적국의 보호를 받을 수 없는 사람들이며, 언제든지 강제추방 되어 박해 받을 국적국으로 돌아갈 수 있다는 두려움을 안고 사는 사람들입니다. 또한 이들은 장기간의 난민인정절차를 기다리면

서 심리적으로 육체적으로 어려움을 겪은 사람들입니다. 따라서 이러한 사람들의 사회 통합은 계획을 가지고 우리 사회에 이주해온 일반 이주외국인의 그것과는 그 **과제와 방향**에 있어 차별성이 있습니다.

그런데 강제 이주민으로서의 난민의 특수성을 고려하는 것은 고사하고 난민협약 등에서 규정하고 있는 난민의 기본적인 권리 조차 보장되지 않는 상황에서 어디서부터 난민의 사회 통합을 이야기 해야 합니까?

### 3. 사회 통합은 권리를 중심으로 논의해야

난민의 사회통합을 처음 논의하는 자리에서 난민협약 등에서 규정한 난민의 권리가 무엇인지 먼저 확인하고 그러한 권리 중에 보장되지 못하고 있는 권리가 무엇인지 살펴보는 것으로 시작해야 합니다. 그 후에 어떻게 난민에게 인정된 권리를 확대해서 해석할 것인지, 그리고 난민이 자신의 권리를 충분히 향유할 수 있도록 하기 위해서는 어떠한 추가 조치들이 필요한지, 나아가서 난민의 사회 통합을 위해 인정된 권리 외에 어떠한 권리를 더 인정할 것인지를 논의로 나아가야 합니다. 그래서 결국은 국민과 거의 동일한 정도의 권리를 누리도록 해야 합니다.

그렇지 않으면 난민은 권리를 제대로 누리지 못해서 오는 소외감을 극복하기 위해 자신(자신의 커뮤니티)과 우리 사회의 차이를 극대화 하여 하부문화로 형성된 자신의 커뮤니티에 숨어 들어가고 그렇게 되면 통합은 요원한 일이 되기 때문입니다.

이처럼 난민의 사회 통합의 과제와 방향을 논의 하면서 난민의 권리 중심적인 접근을 하는 것은 중요합니다. 특히 난민협약 등에서 규정된 난민의 권리 조차 보장되어 있지 않은 상황에서는 더욱 그렇습니다.

난민의 권리 보장적인 접근이 아닌 시혜적인 접근으로는 사회 통합의 과제를 달성할

수 없습니다. 시혜를 받는 의존적인 사람이 자율적인 생활을 하면서 한 사회에 통합하는 것은 상상하기 힘들기 때문입니다. 그러나 우리 정부는 난민에 대해 권리 중심적인 접근이 아니라 시혜적인 접근으로 일관해 오고 있습니다. 국민과 동일한 정도의 권리 보장을 이야기 하는데 정부는 난민에게 시혜를 베푸는 태도를 가지고 있으니 갈 길이 너무 먼 것입니다.

#### 4. 난민협약상 규정된 난민의 권리 보장은 법적인 의무

우리 법원은 난민협약 제12조를 근거로 일관되게 난민신청자가 “난민 요건에 해당한다고 하더라도 난민에게 비호를 부여할 것인지, 부여한다면 그 법률상 지위를 어떻게 정할 것인지 여부는 체약국의 주권적 결정사항이다”라고 하고 있습니다. 또한 2008년 말에 개정된 출입국관리법 제76조의8 제1항은 “정부는 대한민국에서 난민의 인정을 받고 체류하는 외국인에 대하여 「난민협약」에서 규정하는 지위와 처우가 보장되도록 노력하여야 한다”라고 하면서, 제76조의9 에서 난민 지원 업무를 수행하기 위하여 법무부에 난민지원시설을 둘 수 있고 그 시설에서 1. 한국어 교육 및 직업 상담, 2. 사회적응훈련 및 정착지원, 3. 의료지원

등을 할 수 있도록 규정하고 있는데 전형적인 시혜적인 접근이라고 할 것 입니다.

그러나 난민협약은 제12조 이하에서 체약국으로 하여금 난민요건에 해당하는 자에게 일정한 법적 지위 등을 인정 “한다 (shall)”고 표현하여 난민의 권리를 보장할 법적인 의무가 있음을 표현하고 있습니다<sup>1)</sup>. 따라서 난민에게 난민협약상의 권리를 보장할 것인지

1) 난민협약은 난민신청자가 난민협약상의 난민요건을 갖추고 있는지 판단하는 방법(예를 들어 사법적인 절차로 할 것인지, 행정적인 절차로 할 것인지, 규문주의를 적용할 것인지, 당사자주의를 적용할 것인지 등)을 체약국에 위임하였을 뿐이지, 난민 협약 어디에도 체약국의 재량에 따라 난민요건에 해당하는 사람에게 난민협약에서 규정한 권리를 보장할 것인지 여부를 결정할 수 있도록 하고 있지 않습니다. 뿐만 아니라, 난민의정서 제7조는 난민협약의 강제추방금지(제33조), 종교의 자유(제4조), 재판받을 권리(제16조 제1항) 등의 규정에 대해서는 유보할 수 없도록 하면서 다른 비호 규정에 대해서 여건이 되지 않으면 체약국이 그 이행을 유보하도록 하고 있는데 이렇게 협약의 일부 조항에 대해 유보를 할 수 있도록 한 것은 유보를 하지 않을 경우에는 유보를 하지 않은 조항에 대해서는 그 이행에 대해서 법적인 의무를 지겠다는 것 인데 대한민국은 제7조 제1항을 제외하고는 유보 없이 위 협약을

여부에 대해서 체약국의 재량은 없고 난민협약상 규정된 최소한의 권리를 보장할 법적 의무만이 있다고 할 것입니다.

그렇기 때문에 난민 등의 지위와 처우에 관한 법률안(황우여 의원 대표 발의, 이하 난민법안 이라고 함) 제36조 제1항에서 “대한민국에서 난민의 인정을 받고 체류하는 외국인은 다른 법률의 규정에도 불구하고 난민의 지위에 관한 협약 및 그 밖에 대한민국이 체결·공포한 국제인권조약 등에 의한 처우를 보장 받는다”라고 한 것은 당연한 규정이라고 할 것입니다.

그렇다면 이렇게 법적 의무를 가지고 보장해야 하는 난민의 권리에는 어떠한 것이 있습니까? 먼저 난민협약부터 살펴보겠습니다.

## 5. 난민협약상의 난민의 권리

### 가. 난민협약상 권리 규정의 특징

난민협약은 제1조에서 난민요건을 규정한 후에 난민인정절차에 대해서는 침묵하면서 난민의 권리에 대해서는 아주 상세한 규정을 두고 있는데, 이러한 권리 규정의 특징은 난민의 체류의 성격(단순한 체류, 법적인 체류, 법적인 거주, 상 거주)에 따라 인정되는 권리의 범위를 차별화 했을 뿐 아니라, 인정되는 권리에 따라 어느 정도의 수준(외국인이 일반적으로 누리는 정도, 가장 유리한 대우 및 최소한 외국인이 일반적으로 누리는

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비준 하였습니다. 판례는 난민협약 제12조 제1항, 즉 “난민의 개인적 지위(personal status)는 그의 주소지 국가의 법에 의하여, 또는 주소가 없는 경우에는 거소지 국가의 법에 의하여 규율 된다”는 규정을 근거로 난민에 대한 사회적 처우가 재량행위라고 판단하고 있으나, personal status를 ‘개인적인 지위’라고 번역한 것은 오역이며 ‘신분법(친족법)적 지위’라고 번역하는 것이 마땅하며, 제12조는 난민의 결혼, 이혼, 입양, 친권 등과 같은 신분법(친족법)적 지위(personal status)에 대해서는 주소가 있는 국가의 법에 의하여 규율 된다는 취지이지 난민의 일반적인 법적 지위가 체류국의 국내법에 달려있다는 의미는 아닙니다. 그렇기 때문에 난민협약 제12조 제1항의 “주소지 국가”의 해석과 관련해 난민신청인의 출신국인지 아니면 체류국인지에 대해 논란이 있으며, 이스라엘의 경우는 위 제12조 제1항을 받아들이지 않고 있으며 스페인의 경우 위 조항을 유보하고 난민협약에 가입한 것입니다.

정도, 국민이 누리는 정도, 가장 유리한 정도)으로 인정할 지 구분한 것입니다.

## 나. 난민의 체류 성격에 따라 차별화된 난민협약상 권리의 내용

난민의 체류 성격에 따른 차별화된 권리에 관한 규정을 보면, ① 체류의 합법성 여부와 관계 없는 단순 체류(simple presence)하고 있는 난민에게는 차별금지(제3조), 종교(제4조), 재판에 대한 접근 일반(제16조 제1항), 배급(제20조), 공교육(제22조), 신분증명서 발급(제27조), 불법 체류하는 난민에 대한 처벌(제31조), 추방 및 송환의 금지(제33조) 등의 권리를 인정하고, ② 합법적인 체류(lawful presence)를 하고 있는 난민<sup>2)</sup>에게는 ①의 권리 이외에 자영업 종사(제18조), 이동(제26조), 추방(제32조) 등에 관한 권리를 인정하며, ③ 상거주자(habitual resident)인 난민에게는 ①, ②의 권리 이외에 저작권 및 산업재산권(제14조), 재판 제도 중 법률구조 및 소송비용(제16조 제2항)에 관한 권리를 인정하고 있습니다<sup>3)</sup>. 마지막으로 ④ 합법적으로 거주(lawful residence)하고 있는 난민<sup>4)</sup>에게는 ①, ②, ③의 권리 이외에 결사(제15조), 유급직업에 종사(제17조), 자유업에 종사(제19조), 주거(제21조), 공공구호(제23조), 노동법과 사회보장(제24조), 행정적인 지원(제25조) 등에 관한 권리를 인정하고 있습니다.

## 다. 권리의 내용에 따라 구분하고 있는 권리 보장의 정도

또한 이렇게 인정되는 권리의 보장 정도에 대해서는 ① 이동(제26조)에 관해서는 일반적으로 신청국에서 외국인이 받는 대우와 동일한 대우 ② 동산 및 부동산의 소유권 및 권리 취득(제13조), 자영업·자유업에 종사(제18, 19조), 주거(제21조), 중·고등교육 이상의 교육(제22조)에 관해서는 가능한 한 유리한 대우 및 어떤 상황에도 일반적으로 외국인에

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2) 합법적인 체류자는 학생, 방문자 등 단기간 체류할 목적으로 출입국관리법에 따라 허가를 받고 입국한 자를 의미한다. 그러나 체류기간을 넘어서 체류한 난민신청자는 해당되지 않습니다(Goodwin Gill and Mcadam, The Refugee in international Law, Oxford, 524 525면).

3) Goodwin Gill and Mcadam, 앞의 책, 524 528면.

4) 거주 의미에서 비호를 누리는 자를 의미하는데, 난민으로 인정되거나 여행증명서를 발급 받거나, 재입국 비자를 받은 경우에는 합법적인 거주자라는 강한 추정을 받습니다(Goodwin Gill and Mcadam, The Refugee in international Law, Oxford, 525 526면).

게 부여한 것 보다 불리하지 않은 대우 ③ 종교(제4조), 저작권 및 산업재산권(제14조), 재판(법률구조 및 소송비용 등 포함, 제16조), 배급(제20조), 초등교육(제22조), 공공구호(제23조), 노동법과 사회보장(제24조), 재정 공과금(제29조)에 관해서는 국민과 동일한 대우 ④ 결사(비정치적이고 비영리적인 결사 및 노동조합, 제15조), 유급 직업에 종사(제17조)에 관해서는 가장 유리한 대우<sup>5)</sup>를 하도록 규정하고 있습니다.

따라서 난민협약상의 난민의 권리를 일목요연하게 정리하면 다음과 같습니다.

	일반적인 외국인이 받는 대우	가능한 한 유리한 대우 및 일반적으로 외국인이 받는 것보다 불리하지 않은 대우	국민이 받는 대우	가장 유리한 대우
단순 체류자		중·고등교육 (제22조 제2호)	종교 (제4조), 재판 일반(제16조 제1호), 배급 (제20조), 초등교육 (제22조 제1호)	
합법적 체류자	이동 (제26조)	중·고등교육 제22조 제2호), 자영업에 종사 (제18조)	종교 (제4조), 재판 일반(제16조 제1호), 배급 (제20조), 초등교육 (제22조 제1호)	
상거주자	이동 (제26조)	중·고등교육 제22조 제2호), 자영업에 종사 (제18조)	종교 (제4조), 재판 일반(제16조 제1호), 배급 (제20조), 초등교육 (제22조 제1호), 저작권 및 산업재 산권 (제14조), 법률구조 및 소송 비용에 관한 재판 (제16조 제2호)	
합법적 거주자	이동 (제26조)	중·고등교육 제22조 제2호), 자유업에 종사 (제19조), 주거 (제21조), 자영업에 종사 (제18조)	종교 (제4조), 재판 일반(제16조 제1호), 배급 (제20조), 초등교육 (제22조 제1호), 공공구호 저작권 및 산업재산권 (제14조), 법률구조 및 소송비용에 관한 재판 (제16조 제2호) (제23조), 노동법과 사회보장 (제24조)	결사 (제15조), 유급직업에 종사 (제17조)

5) Goodwin Gill and Mcadam, The Refugee in international Law, Oxford, 509 523면, 김칠준, 한국의 난민 보호 현황 및 개선방안, <한국에서의 난민보호의 현황과 과제>, 27 28면.

다음으로 난민협약 이외에 난민의 권리의 근거가 될 수 있는 규범을 경제적 사회적 및 문화적 권리에 관한 국제 규약을 중심으로 살펴보겠습니다.

## 6. 난민의 권리의 근거로서의 헌법과 기타 국제협약

난민의 권리에 관한 규범적 근거로 난민협약 외에 헌법 및 기타 국제법도 살펴봐야 합니다. 헌법 제34조 제1항의 인간다운 생활을 할 권리는 국민의 권리라고 하기 보다는 인간의 권리로 봐야 하므로 난민 역시 최소한의 인간다운 생활을 누릴 권리가 있다고 해야 하고, 특히 경제적·사회적 및 문화적 권리에 관한 국제규약(이하 ‘사회권 규약’)과 아동권리협약은 모든 사람에게 근로의 권리 내지 교육에 대해 일정한 권리를 인정하고 있으므로 체약국은 난민에게 위 협약에 따라 일정한 권리를 보장할 의무가 있다고 할 것이기 때문입니다.

물론 헌법상 인정되는 기본권은 물론이고 사회권 규약에서 인정되는 권리를 보장함에 있어 헌법 제37조 및 사회권 규약 제4조는 그 권리의 제한이 가능하다고 하고 있을 뿐 아니라 사회권 규약 제2조는 가용 자원이 허용하는 범위에서 위 사회권 규약이 규정한 권리를 실현을 하도록 하고 있습니다.

그러나 이러한 권리를 제한 함에 있어서 아무런 한계가 없는 것은 아닙니다. 헌법 제37조와 사회권 규약 제4조는 권리를 제한 함에 있어서 권리의 본질과 양립할 수 있는 한도 내에서 제한하되 그 제한의 목적이 정당할 것(공공복리, 질서유지, 국가안정보장 등)을 요구하고 있고, 같은 규약 제2조는 가용 자원이 허용하는 범위에서 ‘점진적으로 권리를 실현’하도록 하고 있기 때문입니다.

따라서 난민 특히 난민신청자에게 정당한 목적 없이 경제적, 사회적 권리를 제한하거나 가용자원이 있음에도 불구하고 위 권리를 송두리 채 부인하는 것은 위법 하다고 할 것입니다.

그렇다면 이렇게 살펴본 난민의 권리 가운데 강제 이주민이라는 난민의 특수성을 고려할 때 현실적으로 사회통합을 위해 반드시 보장되어야 할 중요한 권리는 어떤 것이 있고 그 권리는 어떻게 확대해석 되어야 하고, 충분한 향유를 위해 어떠한 추가적인 조치가 필요하며 나아가 난민협약 등의 법적인 의무가 없더라도 사회통합을 위해 더 보장되어야 하는 권리는 무엇입니까?

## 7. 강제 이주민인 난민의 사회 통합을 위한 권리 보장

### 가. 일할 수 있는 권리에 관해서

#### (1) 난민인정자의 경우

경제적, 사회적 통합과 관련해서는 취업과 교육이 가장 중요한데, 취업과 관련해서 난민인정자의 경우는 취업이 법적으로는 가능하지만 네트워크도 없고 언어장벽도 있고 자신의 경험과 기술을 인정받지도 못하기 때문에 형식적으로 일할 수 있는 권리만 인정하는 것으로는 부족하고 실질적으로 자신의 기술과 경험을 살려서 일할 수 있도록 적극적인 조치가 필요합니다. 난민법안에서는 난민에 대해 사회적응교육, 직업훈련, 학력인정, 자격인정을 할 수 있는 규정을 두었는데 난민 협약 제22조 제2호의 권리에 대한 확대해석을 통해 난민의 사회 통합을 꾀한 것이라고 할 것입니다.

#### (2) 인도적 체류자의 경우

인도적 체류자에 대해서는 지금까지 취업과 관련해서 아무런 권리를 부여하지 않고 있다가 2008년 말에 개정된 출입국관리법에서는 인도적 체류자에 대해서 취업 허가를 신청할 수 있도록 하였습니다. 그러나 인도적 체류자 역시 국적국의 상황 때문에 돌아갈 수 없는 사람으로서 난민에 준하는 지위에 있는 자이므로 취업 허가 없이 일할 수 있도록 해야 합니다. 이에 대해 난민법안에서는 난민인정자의 권리에 관한 규정을 인도적 체류자에 준용하도록 하였습니다.



### (3) 난민신청자의 경우

난민신청자의 취업과 관련해서는 우리 정부는 생계보조도 하지 않고 취업도 못하게 한 채 장기간의 난민인정절차를 밟도록 하였습니다. 그러나 난민의 사회통합은 난민이 우리 사회에 도착했을 때부터 시작되어야 합니다. 일을 못한 채 난민신청자로서 장기간 살아갈수록 난민으로 인정 받고 난 이후에 사회통합은 그 만큼 힘들기 때문입니다. 이에 대해서 난민신청자에게 취업을 하도록 하면 난민제도를 남용하는 사람들이 늘어날 것이라고 반문할 수도 있을 것입니다. 그러나 난민제도의 남용만을 염두에 둘 것이 아니라 진성 난민을 어떻게 보호할 것인지에 대해서도 진지한 고민이 있어야 합니다. 난민인정 절차를 통해 난민으로 인정받기 전이라도 난민요건에 해당하기만 하면 난민이라는 것이 난민법의 대원칙이기 때문입니다. 2008년 말에 개정된 출입국관리법과 그 시행령은 난민신청자가 신청 후 1년이 지나도록 난민인정여부가 결정되지 아니한 경우에는 취업 허가를 신청할 수 있도록 하고 있습니다. 그러나 난민신청자가 1년 동안 생계보조비도 없이 1년 동안 취업을 하지 않은 채 살 수는 없습니다. 난민법안에 따라 난민 신청시 생계보조를 하고 6개월이 지나도록 난민인정절차가 종료하지 않은 경우에는 취업을 허가하도록 해야 합니다<sup>6)</sup>. 또한 난민협약 제17조 1 (a) 따라 3년 이상 거주한 사람에게는 취

6) 각국의 입법례를 보더라도 난민신청자에게 원칙적으로 일할 수 있는 권리를 주고 있는데, 예를 들어 ‘유럽연합의 난민신청자의 사회적 처우에 관한 최소한의 지침(Council Directive 2003 laying minimum standards for the reception of asylum seekers)’ 제13조에서는 “난민신청자가 건강한 삶을 살고 생계를 유지할 수 있는 재정적인 지원에 관한 법령을 제정해야 한다”고 하고 있고, 제11조에서는 “난민지위 신청을 한 후 1년 이내에 결정이 나오지 않는 경우 일할 수 있는 권리를 부여해야 한다”고 하고 있습니다. 호주는 일반적으로 난민신청자에게 일할 수 있는 권리를 부여하고 있으나 호주에 입국한 후 늦게 난민을 신청한 경우에는 일할 수 있는 권리가 부여되지 않을 수 있도록 하고 있습니다. 그러나 이 경우에도 난민인정절차가 6개월 이상 길어짐에도 불구하고 일을 하지 않고는 생계를 유지할 수 없는 경우에는 다시 일할 수 있는 권리를 주고 있습니다.1) 벨기에는 난민신청자에게 일할 수 있도록 허가하면서 1년 마다 갱신하도록 하고 있으나 원칙적으로 난민인정절차가 종료할 때 까지는 일할 수 있는 권리가 계속 주어집니다. 캐나다는 난민신청자가 난민인정절차가 진행되는 동안 일을 하지 않으면 생계를 유지할 수 없는 경우 일할 수 있도록 하고 있습니다.2) 덴마크의 경우 난민신청을 하면 난민신청자로서의 체류자격을 가지는데, 이러한 체류자격을 가지게 되면 취업 허가를 별도로 받을 필요 없이 취업을 할 수 있습니다.3) 뉴질랜드는 난민인정절차가 진행되는 동안 생계를 유지하기 위해서는 일할 수 밖에 없다는 것이 인정되면 일할 수 있도록 허가해 줍니다. 남아프리카 공화국의 경우 최고법원이 2003년 난민신청자가 생계를 유지하기 위해서는 일할 수 밖에 없는 경우 일할 수 있도록 허가해야 한다는 판결을 한 후 2004년 법을 개정하여 난민신청자에게 일할 수 있는 권리를 부여하고 있습니다. 영국의 경우 난민신청한 후 12개월이 지나도 최초의 난민인정절차가 종료하지 않으면 취업을 허가할 수 있도록 하고 있습니다. 이와 같은 각국의 입법례를 보면 난민신청자에게 자동적으로 일할 수 있는 권리를 부여 하는 나라도 있고, 일하지 않으면 생계를 유지할 수 없다는 것이 인정될 경우 허가를 하

업할 수 있도록 해야 합니다.

위 개정 출입국관리법의 “난민인정여부가 결정되지 아니한 경우”의 해석과 관련해서 그것이 법무부 단계에서 난민인정여부가 결정되지 아니한 경우만 을 의미하는지 아니면 법원 단계에서 난민인정여부가 결정되지 아니한 경우까지 포함하는지 논란이 있을 수 있습니다. 그러나 법원의 판결에 의해 난민인정거부처분이 취소가 되면 다시 난민인정이 이루어지므로 문리적인 해석으로는 법원 단계에서 난민인정여부가 결정되지 아니한 경우까지 포함하는 것이 타당하다고 할 것이며, 난민인권센타가 최근 정보공개청구를 하여 얻어낸 자료에 따르면 전체 난민인정자 중에서 가족결합원칙에 의해 난민으로 인정한 사람을 제외한 법무부 단계에서의 난민인정자의 숫자는 50% 정도에 불과하고 나머지는 법원에 의해서 인정되었으므로 우리 나라의 경우 난민인정절차는 사법절차까지 포함하는 것으로 해석되어야 합니다.

## 나. 교육권에 관해서

초등교육에 대해서 난민협약 제22조 제1호에서는 “체약국은 난민에게 초등교육에 대하여 자국민에게 부여하는 대우와 동일한 대우를 부여한다”라고 하고 있고, 여기에 더 나아가 사회권 규약 제13조 제2호와 아동권리협약 제28조 제1호 가는 “초등교육은 의무적이며 모든 사람에게 무료로 제공되어야 한다”라고 하고 있습니다. 중등 내지 고등교육에 대해서는 난민협약 제22조 제2호에서는 “체약국은 난민에게 초등교육 이외의 교육, 특히 수학의 기회, 학업에 관한 증명서, 자격증서 및 학위로서 외국에서 수여된 것의 승인, 장학금의 급여에 관하여 가능한 한 유리한 대우를 부여하고, 어떠한 경우에 있어서도 동일한 사정 하에서 일반적으로 외국인에게 부여하는 대우보다 불리하지 아니한 대우를 부여한다”라고 하고 있는데, 사회권 규약 제13조 제2호와 아동권리협약 제28조 제1호 나 내지 다는 “중등교육...에 대한 모든 아동의 이용 및 접근이 가능하도록 하며”,

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는 나라도 있으며, 처음부터 일 할 수 있는 권리를 주는 나라가 있고, 처음에는 생계지원을 하다가 나중에 일 할 수 있는 권리를 주는 나라가 있으며, 난민인정에 관한 행정절차가 진행되는 동안만 일 할 수 있는 권리를 인정하는 나라도 있었고, 사법절차가 진행되는 동안에도 인정하는 나라가 있으나<sup>4)</sup> 우리나라와 같이 난민신청자에게 아무런 재정적 지원 없이 일할 수 있는 권리마저 부인하고 있는 나라는 거의 찾아 볼 수 없습니다.

“고등교육의 기회가 모든 사람에게 능력에 입각하여 개방될 수 있도록 모든 적절한 조치를 취하여야 한다.”라고 하고 있습니다.

위 난민협약상의 ‘난민’은 난민신청자와 인도적 지위자를 포함하는 개념이라고 해야 하고 사회권 규약과 아동권리협약의 관련 규정 역시 ‘모든 사람’을 권리의 수혜자로 보고 있을 뿐 아니라, 아동권리협약 제2조는 “당사국은 자국의 관할권 안에서… 아동 또는 그의 부모나 후견인의 인종, 피부색, 성별, 언어, 종교, 정치적 또는 기타의 의견, 민족적, 인종적 또는 사회적 출신, 재산, 무능력, 출생 또는 기타의 신분에 관계없이 그리고 어떠한 종류의 차별을 함이 없이 이 협약에 규정된 권리를 존중하고, 각 아동에게 보장하여야 한다.”라고 하여 난민신청자의 아동 뿐 아니라 난민신청자와 인도적 지위자 아동 역시 차별 없이 권리를 누리도록 하고 있습니다.

초·중등교육법시행령 제19조는 외국인이 보호하는 아동이 초등학교에 입학하는 경우 해당학교의 장은 출입국에 관한 사실증명 또는 외국인등록사실증명의 내용을 확인함으로써 입학 절차에 갈음할 수 있도록 하고 있으므로 초등학교 교육의 경우에는 난민신청자 뿐 아니라 난민신청자와 인도적 지위자가 보호하는 아동의 교육받을 권리에 대한 국내법적 규정이 있다고 할 것입니다.

그러나 중·고등학교의 경우 난민이 보호하고 있는 아동이 학교장 재량으로 학교 취학이 가능한 것으로 보이나, 초·중등교육법 등에 관련 규정이 없어 그것이 권리로 부여되었다고 보기는 어려운 상황입니다. 고등교육과 관련해서는 고등교육법시행령 제29조 제2항 제7호에서 “외국에서 우리나라 초·중등교육에 상응하는 교육과정을 전부 이수한…외국인”은 별도의 정원으로 입학할 수 있는 규정을 두고 있는 것 이외에는 특별한 규정을 마련하고 있지 않습니다. 특히 초중등교육에 관해서 난민신청자는 물론, 난민신청자의 자녀라 하더라도 학교 취학이 가능한 것으로 보이나, 초중등교육법 등에 관련 규정이 없어 그것이 난민아동의 권리로 부여되었다고 보기는 어려운 상황입니다.

따라서 난민법안에서 “미성년인 난민의 인정을 받은 자 및 난민의 인정을 받은 자의

미성년인 ‘법무부장관은 난민의 인정을 받은 자에 대하여 대통령령으로 정하는 바에 따라 그의 연령, 수학능력, 그 밖에 교육여건 등을 고려하여 교육을 받을 수 있도록 필요한 지원을 할 수 있도록 할 수 있다’라고 규정하여 교육을 통한 사회통합을 모색한 것은 옳은 태도라고 할 것입니다.

## 다. 가족결합의 권리에 대해서

가족을 국적국에 두고 온 경우 가족과 떨어져서 있으면서 다른 사회에 통합되는 것은 쉽지 않습니다. 따라서 가족결합의 원칙을 인정하는 것이 난민의 사회 통합에 있어서 중요합니다. 비록 출입국관리법 등에 가족결합원칙의 적용을 받는 난민가족의 범위 및 가족결합원칙을 명문화하지 않고 있지만 법무부는 가장이 난민으로 인정된 경우 가족들에게 동반하여 난민자격을 부여하고 있습니다. 그러나 인도적 체류자의 경우 가족결합의 권리에 전혀 인정하지 않고 있어서 문제일 뿐 아니라 난민인정자라고 하더라도 가족결합의 원칙에 의해 난민인정을 받기 위한 전제로 가족들이 한국에 입국해야 하는데, 그 입국 그 자체가 현실적으로 어렵습니다.

그러나 난민협약 제25조는 “난민이 그의 권리행사를 위하여 통상적으로 외국기관의 원조가 필요한 경우 그 기관의 원조를 구할 수 없는 때에는, 그 난민이 거주하고 있는 체약국은 자국의 기관 또는 국제기관에 의하여 그러한 원조가 난민에게도 제공되도록 조치를 취한다”라고 하고 있으므로 난민으로 인정된 가족이 한국에 입국할 수 있도록 행정적인 지원이 있어야 할 것입니다. 난민법에서는 가족결합의 원칙이 인도적 체류자에게도 적용되도록 하였고 난민의 가족결합 보장 원칙을 명문화 하여 가족의 입국을 허가하도록 하였습니다.

## 라. 체류에 대하여

임시적인 체류 자격 만을 받은 사람이 언제든지 강제 출국당 할 위험에 처해 있으면서 사회에 통합되기는 어려울 것입니다. 그런데 인도적 체류자의 경우에는 앞에서 언급한 바와 같이 난민과 준하는 권리를 보장 받아야 함에도 불구하고 임시 체류 비자인 G1

을 소지한 채 6개월 마다 체류를 연장해야 합니다. 인도적 체류자의 사회 통합을 위해서 난민에 준하는 체류 기간을 보장 받아야 합니다(난민법안 제47조).

## 마. 국적 취득 등에 대하여

난민의 경우 시민적, 정치적인 통합을 위해서는 국적을 취득할 수 있는 요건이 완화되어야 합니다. 현재 난민인정자라도 국적법에 따른 요건을 갖추어야 귀화를 할 수 있도록 되어 있으나 난민법안 제46조는 난민협약 제34조에 따라 난민인정을 받은 자로서 3년 이상 계속하여 주소가 있는 자는 귀화허가를 받을 수 있도록 하고 있습니다.

국적 취득과 관련해서 가장 문제가 되는 것은 난민 자녀의 국적 문제입니다. 자유권 규약 제16조는 “모든 사람은 어디에서나 법 앞에 인간으로서 인정받을 권리를 가진다”라고 하고 있고, 제24조 제2호는 “모든 어린이는 출생 후 즉시 등록되고, 성명을 가진다. 모든 어린이는 국적을 취득할 권리를 가진다”라고 하고 있으며, 아동권리협약 제7조는 “아동은 출생 후 즉시 등록되어야 하며…당사국은 이 분야의 국내법 및 관련 국제문서상의 의무에 따라 이러한 권리가 시행되도록 보장하여야 하며, 권리가 실행되지 아니하여 아동이 무국적으로 되는 경우에는 특히 그러하다”라고 하고 있으며, 제8조는 “당사국은…국적, 성명 및 가족관계를 포함하여 법률에 의하여 인정된 신분을 보존할 수 있는 아동의 권리를 존중한다”라고 하고 있습니다. 대한민국은 1962년 8월 22일 무국적자 지위에 관한 협약에 아무런 유보도 하지 않고 가입서를 기탁하였습니다. 무려 50년 전에 다른 6대 인권규약에 가입도 전에 위 협약에 가입한 것입니다. 그럼에도 불구하고 아직까지 무국적자의 사회적 처우에 관한 것은 물론 이거니와 무국적자를 확인하는 절차를 규율 하는 국내 입법을 전혀 하지 않은 상태로 한국에 체류 중인 무국적자를 방치하고 있습니다. 그런데 대한민국은 혈통주의를 취하고 있기 때문에 출생지주의를 취하는 국적국에서 온 난민이 한국에서 자녀를 출산한 경우 위 자녀는 무국적자가 되고 위와 같은 입법적인 미비로 인해 아무런 도움을 받지 못하게 됩니다. 난민의 사회 통합을 위해서는 난민의 자녀가 국적을 취득할 수 있는 길이 열여야 됩니다.

지금까지 난민의 사회 통합에 있어서 중요한 권리 등을 살펴보았는데, 이러한 권리 중심적인 접근이 중요함에도 불구하고 난민의 사회 통합에 있어서는 우리 사회의 난민에 대한 태도가 중요합니다.

## 8. 환대의 사회를 향해

난민의 사회 통합의 가장 기초가 되는 것은 우리 사회의 환대의 태도입니다. 그런데 어떻게 이러한 환대의 태도를 갖도록 여론을 환기 시킬 수 있습니까? 우선 이러한 환대의 태도를 갖기 위해서는 대중에게 교육 등을 통해 난민이 국적국의 박해로 인해 돌아갈 수 없는 상황에 처한 사람이고 우리에게는 난민을 보호할 도덕적 의무와 법적 의무가 있다는 점을 알려야 합니다. 그리고 난민을 보호하는 일은 세계평화에 이바지 하는 일임을 알려야 합니다. 이 일을 위해서는 미디어가 중요한 역할을 담당해야 할 것입니다. 그러나 통합의 마지막 단계는 개인적인 관계에서 일어납니다. 그렇기 때문에 우리 모두가 난민의 좋은 친구가 되는 것이 중요합니다.



## 부 록

난민의 지위에 관한 협약

난민의 지위에 관한 의정서

Ex Com Conclusion on Local Integration



## 난민의 지위에 관한 협약

(1951년 7월 28일)

### 전 문

체약국은, 국제연합헌장과 1948년 12월 10일 국제연합 총회에 의하여 승인된 세계인권선언이 인간은 차별없이 기본적인 권리와 자유를 향유한다는 원칙을 확인하였음을 고려하고,

국제연합이 기회가 있을 때마다 여러번 난민에 대한 깊은 관심을 표명하였고 난민에게 이러한 기본적인 권리와 자유의 가능한 한 광범위한 행사를 보장하려고 노력하였음을 고려하며,

난민의 지위에 관한 종전의 국제협정들을 개정하고 통합하며, 그러한 문서의 적용범위와 그 문서에 의하여 부여되는 보호를 새로운 협정에 의하여 확대시키는 것이 바람직함을 고려하며,

난민에 대한 비호의 부여는 특정국가에게 부당하게 과중한 부담이 될 수 있고, 또한 국제적 범위와 성격을 가진다고 국제연합이 인정하는 문제에 관한 만족할 만한 해결은 국제협력이 없이는 이루어질 수 없음을 고려하며,

모든 국가가 난민문제의 사회적, 인도적 성격을 인식하고, 이 문제가 국가간의 긴장의 요인이 되지 않도록 가능한 모든 조치를 취할 것을 희망하며,



국제연합 난민고등판무관이 난민보호를 규정하는 국제협약의 이행을 감독할 임무를 맡고 있음을 유의하고, 또한 이 문제를 다루기 위하여 취하여야는 조치의 효과적인 조정은 각국과 고등판무관간의 협력에 달려 있음을 인정하며,

다음과 같이 합의하였다.

## 제1장 일 반 규 정

### 제1조 “난민”의 용어 정의

A. 이 협약의 목적상, “난민”의 용어는 다음과 같은 자에게 적용된다.

- (1) 1926년 5월 12일 및 1928년 6월 30일의 협정 또는 1933년 10월 28일 및 1938년 2월 10일의 협약, 1939년 9월 14일의 의정서 또는 국제난민기구 헌장에 의하여 난민으로 간주되고 있는 자.

국제난민기구가 그 활동기간동안 취한 난민 부적격성에 대한 결정은 이 조 제2호의 요건을 충족하는 자에게 부여되는 난민의 지위를 방해하지 아니한다.

- (2) 1951년 1월 1일 이전에 발생한 사건의 결과로서, 또한 인종, 종교, 국적, 특정사회 집단의 구성원 신분 또는 정치적 의견을 이유로 박해를 받을 우려가 있다는 충분한 근거가 있는 공포로 인하여, 자신의 국적국 밖에 있는 자로서, 국적국의 보호를 받을 수 없거나, 또는 그러한 공포로 인하여 국적국의 보호를 받는 것을 원하지 아니하는 자. 또는 그러한 사건의 결과로 인하여 종전의 상주국 밖에 있는 무국적자로서, 상주국에 돌아갈 수 없거나, 또는 그러한 공포로 인하여 상주국으로 돌아가는 것을 원하지 아니하는 자.

2개 이상의 국적을 가진 자의 경우, “국적국”의 용어는 그가 국적을 가지고 있는

국가 각각을 의미하며, 또한 충분한 근거가 있는 공포에 기초한 정당한 이유없이 국적국중 어느 한 국가의 보호를 받고 있지 아니하였다면 당해인에게 국적국의 보호가 없는 것으로 인정되지 아니한다.

B. (1) 이 협약의 목적상, 제1조 제A항의 “1951년 1월 1일 이전에 발생한 사건”의 용어는, 다음중 어느 하나

(a) “1951년 1월 1일 이전에 유럽에서 발생한 사건”. 또는

(b) “1951년 1월 1일 이전에 유럽이나 기타 지역에서 발생한 사건”을 의미하는 것으로 이해되며, 또한 각 체약국은 서명, 비준 또는 가입시에 이 협약상의 의무를 이행함에 있어서 상기 두가지 의미중 어느 규정을 적용할 것인지를 명백히 하는 선언을 한다.

(2) (a) 규정을 채택한 체약국은 (b)규정의 적용을 채택하여 국제연합 사무총장에게 통고함으로써 언제든지 그 의무를 확대할 수 있다.

C. 이 협약은 제A항의 조건을 충족하는 자가 다음과 같은 경우에 해당되는 경우 그 적용이 중지된다.

(1) 자발적으로 국적국의 보호를 다시 받고 있는 경우. 또는

(2) 국적을 상실한 후, 자발적으로 국적을 회복한 경우. 또는

(3) 새로운 국적을 취득하고, 또한 새로운 국적국의 보호를 받고 있는 경우. 또는

(4) 박해를 받을 우려가 있는 공포 때문에 거주하고 있는 국가를 떠나거나 또는 그 국가 밖에서 체류하고 있다가 자발적으로 그 국가에 재정착한 경우. 또는

(5) 난민으로 인정되게 된 관련사유가 소멸되었기 때문에, 더 이상 국적국의 보호를 받는 것을 거부할 수 없게 된 경우.

다만, 이 조항은 제A항 제1호에 해당되는 난민으로서 국적국의 보호를 거부하기 위하여 과거의 박해로부터 발생한 불가피한 사유에 호소하는 자에게는 적용되지

아니한다.

- (6) 무국적자로서, 난민으로 인정되게 된 관련사유가 소멸되었기 때문에, 종전의 상주국으로 돌아갈 수 있는 경우.

다만, 이 조항은 동조 제A항 제1호에 해당하는 난민으로서 종전의 상주국으로 돌아가는 것을 거부하기 위하여 과거의 박해로부터 발생한 불가피한 사유에 호소하는 자에게는 적용되지 아니한다.

- D. 이 협약은 국제연합 난민고등판무관 외에 국제연합의 다른 기구 또는 기관으로부터 보호 또는 원조를 현재 받고 있는 자에게는 적용되지 아니한다.

그러한 보호 또는 원조를 현재 받고 있는 자의 지위가 국제연합 총회에 의하여 채택된 관련 결의문에 따라 최종적으로 해결됨이 없이 그러한 보호 또는 원조의 부여가 어떠한 이유로 중지되는 경우, 그러한 자는 그 사실에 의하여 이 협약상의 이익을 부여받을 자격이 있다.

- E. 이 협약은 당해인이 거주하고 있는 국가의 관할기관에 의하여 그 국가의 국적보유에 수반되는 권리와 의무를 가지는 것으로 인정된 자에게는 적용되지 아니한다.

- F. 이 협약의 규정은 다음 각호에 해당된다고 인정된 상당한 이유가 있는 자에게는 적용하지 아니한다.

- (a) 평화에 반하는 범죄, 전쟁범죄, 또는 인도에 반하는 범죄에 관하여 규정하고 있는 국제문서에서 정하여진 범죄를 저지른 자.
- (b) 난민으로서 피난국에 입국하는 것이 허가되기 이전에 그 국가 밖에서 중대한 비정치적 범죄를 저지른 자.
- (c) 국제연합의 목적과 원칙에 반하는 행위를 한 자.

## 제2조 일반적 의무

모든 난민은 자신이 체재하는 국가에 대하여 특히 그 국가의 법규를 준수할 의무 및

공공질서를 유지하기 위한 조치에 따를 의무를 진다.

### 제3조 무차별원칙

체약국은 난민에게 인종, 종교 또는 출신국에 의한 차별없이 이 협약의 규정을 적용한다.

### 제4조 종 교

체약국은 그 영역 내의 난민에게 그의 종교를 신봉하는 자유 및 자녀의 종교교육에 관한 자유에 대하여 적어도 자국민에게 부여되는 것과 동등한 호의적 대우를 부여한다.

### 제5조 이 협약과는 관계없이 부여되는 권리

이 협약상의 어떠한 규정도 이 협약과는 별도로 체약국이 난민에게 인정하는 권리와 이익을 침해하는 것으로 간주되지 아니한다.

### 제6조 “동일한 사정하에서”의 용어

이 협약의 목적상, “동일한 사정하에서”의 용어는 성격상 난민이 충족시킬 수 없는 요건을 제외하고, 특정 개인이 그가 난민이 아니라고 할 경우에 당해권리를 향유하기 위하여 갖추어야 하는 (체재 또는 거주 기간과 조건에 관한 요건을 포함한다)요건이 충족되어야 함을 의미한다.

### 제7조 상호주의로부터의 면제

1. 체약국은 난민에게 이 협약이 보다 유리한 규정을 두고 있는 경우를 제외하고, 일반적으로 외국인에게 부여하는 것과 동등한 대우를 부여한다.
2. 모든 난민은 어떠한 체약국의 영역 내에서 3년간 거주한 후에 그 체약국의 영역내에서의 입법상의 상호주의로부터 면제를 받는다.

3. 각 체약국은 자국에 대하여 이 협약이 발효하는 날에 상호주의의 적용없이 난민에게 이미 인정되고 있는 권리와 이익을 계속해서 부여한다.
4. 체약국은 제2항과 제3항에 따라 주어진 권리와 이익 외의 권리와 이익을 상호주의의 적용없이 난민에게 부여할 가능성과, 제2항과 제3항에 규정된 조건을 충족시키지 못하고 있는 난민에게도 상호주의로부터의 면제를 적용할 가능성을 호의적으로 고려한다.
5. 제2항과 제3항의 규정은 모두 이 협약의 제13조, 제18조, 제19조, 제21조 및 제22조에서 규정하는 권리와 이익 및 이 협약에서 규정하고 있지 아니하는 권리와 이익에도 적용한다.

### 제8조 예외적 조치로부터의 면제

체약국은, 특정한 외국국민의 신체, 재산 또는 이익에 대하여 취하여질 수 있는 예외적 조치에 관하여, 형식상 당해 외국의 국민인 난민에 대하여 단순히 그 국가의 국적을 가졌다는 이유만으로 그 조치를 적용하여서는 아니된다. 자국의 법령상 이 조항에 언급된 일반원칙을 적용할 수 없는 체약국은 적당한 경우 그러한 난민에게 유리하게 예외적 조치로부터의 면제를 인정한다.

### 제9조 잠정조치

이 협약의 어떠한 규정도, 전시 또는 기타 중대하고 예외적인 상황에서, 특정 개인에 관하여 국가안보를 위하여 불가결하다고 보는 조치를 잠정적으로 취하는 것을 방해하지 아니한다. 다만, 그 잠정조치는, 특정 개인이 사실상 난민인가의 여부 또한 그에 관하여 그러한 조치를 계속 적용하는 것이 국가안보의 이익을 위하여 필요한 것인지의 여부를 체약국이 결정할 때까지에 한한다.

### 제10조 거주지 계속

1. 난민이 제2차 세계대전중에 강제로 퇴거되어 어느 체약국의 영역으로 이동되어서

그 영역 내에 거주하고 있는 경우, 그러한 강제된 체류기간은 그 영역내에서 합법적으로 거주한 것으로 간주된다.

2. 난민이 제2차 세계대전중에 어느 체약국의 영역으로부터 강제로 퇴거되었다가 이 협약의 발효일 이전에 거주목적으로 그 영역 내에 다시 귀환한 경우, 그러한 강제 퇴거 전후의 거주기간은 계속적인 거주가 요건이 되는 어떠한 경우에 있어서도 계속된 하나의 기간으로 간주된다.

### 제11조 선원 난민

체약국은 자국을 기국으로 하는 선박에 승선하고 있는 선원으로서 정기적으로 근무하는 난민의 경우에, 자국의 영역 내에서 정착하는 것에 관하여 호의적으로 고려하고, 특히 타국에서의 정착을 용이하게 하기 위하여 여행증명서를 발급하거나 또는 자국의 영역에 일시적으로 입국을 허가하는 것에 관하여 호의적으로 고려한다.

## 제2장 법 적 지 위

### 제12조 개인적 지위

1. 난민의 개인적 지위는 그의 주소지 국가의 법에 의하여, 또는 주소가 없는 경우에는 거소지 국가의 법에 의하여 규율된다.
2. 난민이 이전에 취득한 권리로서 개인적 지위에 수반되는 권리, 특히 혼인에 수반되는 권리는, 당해 권리가 그 체약국의 법에 정하여진 절차를 필요로 하는 경우 이에 따를 것을 조건으로 하여, 그 체약국에 의하여 존중된다. 다만 당해 권리는 난민의 자격을 얻지 못한 경우라도 그 체약국의 법에 의하여 인정된 것이어야 한다.

### 제13조 동산 및 부동산

체약국은 난민에게, 동산과 부동산의 소유권과 이에 관한 기타 권리의 취득 및 동산과 부동산에 관한 임대차 및 기타 계약에 관하여, 가능한 한 유리한 대우를, 그리고 어떠한 경우에 있어서도 동일한 사정하에서 일반적으로 외국인에게 부여하는 것보다 불리하지 아니한 대우를 부여한다.

### 제14조 저작권 및 산업재산권

난민은 발명, 의장 또는 모형, 상표, 상호와 같은 산업재산권과 문학적, 예술적 및 학술적 저작물에 대한 권리의 보호에 관하여, 그가 상주거소를 가지는 국가에서 그 국가의 국민에게 부여되는 것과 동일한 보호를 부여받는다. 기타 체약국의 영역에서도, 그가 상주거소를 가지는 국가의 국민에게 그 체약국의 영역에서 부여되는 것과 동일한 보호를 부여받는다.

### 제15조 결사의 권리

체약국은 합법적으로 그 국가의 영역 내에 체재하는 난민에게 비정치적이고 비영리적인 단체와 노동조합에 관한 사항에 관하여, 동일한 사정하에서 외국국민에게 부여한 것중 가장 유리한 대우를 부여한다.

### 제16조 재판을 받을 권리

1. 난민은 모든 체약국의 영역 내에서 자유로이 재판을 받을 권리를 가진다.
2. 난민은 상주거소를 가지는 체약국에서 법률구조 및 소송비용의 담보면제를 포함한 재판을 받을 권리에 관한 사항에 있어서 그 체약국의 국민에게 부여되는 것과 동일한 대우를 부여받는다.
3. 난민은 상주거소를 가지고 있는 체약국외의 다른 체약국에서 제2항에 규정된 사항에 관하여 상주거소를 가지는 체약국의 국민에게 인정되는 것과 동일한 대우를 부여받는다.

## 제3장 유 급 직 업

### 제17조 임금 지급되는 직업

1. 체약국은 합법적으로 자국영역 내에 체재하는 난민에게 임금이 지급되는 직업에 종사할 권리에 관하여 동일한 사정하에서 외국국민에게 부여하는 것중 가장 유리한 대우를 부여한다.
2. 어떠한 경우에 있어서도, 국내 노동시장을 보호하기 위하여 외국인 또는 외국인의 고용에 부과하는 제한적 조치는, 관련 체약국에 대하여 이 협약의 발효일에 이미 그 조치로부터 면제된 난민, 또는 다음의 조건중 어느 하나를 충족시키는 난민에게는 적용되지 아니한다.
  - (a) 그 체약국에서 3년이상 거주하고 있는 자.
  - (b) 그 난민이 거주하고 있는 체약국의 국적을 보유하고 있는 배우자가 있는 자. 난민이 그러한 배우자를 유기한 경우에는 이 규정상의 혜택을 받을 수 없다.
  - (c) 그 난민이 거주하고 있는 체약국의 국적을 보유하고 있는 1명 또는 그 이상의 자녀가 있는 자.
3. 체약국은 임금이 지급되는 직업에 있어서 모든 난민의 권리를, 특히 노동인력 수급 계획 또는 이주민 계획에 따라 그 영역 내에 입국한 난민의 권리를 자국민의 권리와 동일하게 할 것을 호의적으로 고려한다.

### 제18조 자영업

체약국은 합법적으로 그 영역 내에 있는 난민에게 자기의 뜻대로 농업, 공업, 수공업 및 상업분야에서 종사하는 권리 및 상업상, 산업상 회사를 설립할 권리에 관하여, 가능한 한 유리한 대우를 부여하고, 어떠한 경우에 있어서도 동일한 사정하에서 일반적으로 외국인에게 부여하는 것보다 불리하지 아니한 대우를 부여한다.



### 제19조 자유업

1. 각 체약국은 그 국가의 관할기관이 인정한 자격증을 가지고 있으면서 자유업에 종사하기를 원하는, 그 영역 내에 합법적으로 체재하는 난민에게, 가능한 한 유리한 대우를, 어떠한 경우에 있어서도 동일한 사정하에서 일반적으로 외국인에게 부여하는 것보다 불리하지 아니한 대우를 부여한다.
2. 체약국은 자국 영역 외에 국제관계에 책임이 있는 영역 내에서 그러한 난민의 정착을 보장하기 위하여 자국의 헌법과 법률에 따라 최선의 노력을 다한다.

## 제4장 복 지

### 제20조 배 급

공급이 부족한 물자의 분배를 규제하는 것으로서 주민전체에 적용되는 배급제도가 있는 경우, 난민은 내국민과 동일한 대우를 부여받는다.

### 제21조 주 거

체약국은, 주거에 관한 사항이 법령의 규제를 받거나 또는 공공기관의 관리하에 있는 경우, 합법적으로 자국영역 내에 체재하는 난민에게 주거에 관하여 가능한 유리한 대우를, 어떠한 경우에 있어서도, 동일한 사정하에서 일반적으로 외국인에게 부여되는 것보다 불리하지 아니한 대우를 부여한다.

### 제22조 공공교육

1. 체약국은 난민에게 초등교육에 관하여 자국민에게 부여되는 것과 동일한 대우를 부여한다.
2. 체약국은 난민에게, 초등교육외의 교육에 관하여, 특히 수학의 기회, 외국학교의 학

업증명서, 학위수여증 및 학위의 인정, 수업료와 공납금의 면제 및 장학금의 수여에 관하여, 가능한 한 유리한 대우를 부여하고, 어떠한 경우에 있어서도, 동일한 사정하에서 일반적으로 외국인에게 부여하는 것보다 불리하지 아니한 대우를 부여한다.

### 제23조 공적 구호

체약국은 합법적으로 자국영역 내에 체재하는 난민에게 공적 구호와 공적 원조에 관하여 자국민에게 부여되는 것과 동일한 대우를 부여한다.

### 제24조 노동법과 사회보장

1. 체약국은 합법적으로 자국영역 내에 체재하는 난민에게 다음과 같은 사항에 관하여 자국민에게 부여하는 것과 동일한 대우를 부여한다.

(a) 보수의 일부가 되는 가족수당을 포함한 보수, 노동시간, 초과근무시 조치, 임금이 지급되는 휴일근무, 가내근로의 제한, 최저고용연령, 견습과 훈련, 여성과 연소자의 노동 및 노사의 단체교섭에 의한 이익에 관한 사항이 법령에 의하여 규율되고 또는 행정기관의 규제를 받는 경우.

(b) 사회보장(산업재해, 직업병, 모성보호, 질병, 불구, 노령, 사망, 실업, 가족부양 및 국내법령에 의하여 사회보장제도의 대상이 되는 기타 사고에 관한 법규정), 다만, 다음의 조치에 따를 것을 조건으로 한다.

(i) 취득한 권리와 취득과정중에 있는 권리의 유지를 위한 적절한 조치가 있을 수 있다.

(ii) 난민이 거주하고 있는 국가의 국내법령은 공공기금으로부터 전액 지급되는 연금의 전부 또는 그 일부에 관하여, 또한 일반 연금의 지급에 필요한 기여조건을 충족시키지 못하는 자에게 지급되는 수당에 관하여 특별한 조치를 취할 수 있다.

2. 산업재해 또는 직업병으로 인한 난민의 사망에 대한 보상청구권은 수혜자가 체약국

의 영역 밖에 거주하고 있다는 사실에 의하여 영향을 받지 아니한다.

3. 체약국은 사회보장에 관하여 이미 취득한 권리와 취득과정중에 있는 권리의 유지에 관하여, 다른 체약국들간에 이미 체결한 협정 또는 장래 체결할 협정에 의한 이익과 동일한 이익을, 당해협정의 서명국의 국민에게 적용되는 조건을 난민이 충족시키고 있는 한, 그 난민에게 부여한다.
4. 체약국은 상기한 체약국과 비체약국간의 언제든지 유효할 수 있는 유사한 협정에 의한 이익과 동일한 이익을 가능한 한 난민에게도 확대하여 부여하는 것을 호의적으로 고려한다.

## 제5장 행정적 조치

### 제25조 행정적 원조

1. 난민이 그의 권리행사를 위하여 통상적으로 외국기관의 원조가 필요한 경우 그 기관의 원조를 구할 수 없는 때에는, 그 난민이 거주하고 있는 체약국은 자국의 기관 또는 국제기관에 의하여 그러한 원조가 난민에게도 제공되도록 조치를 취한다.
2. 제1항에서 말하는 자국의 기관 또는 국제기관은, 난민에게 외국인이 통상적으로 본국의 기관으로부터 또는 이를 통하여 발급받는 것과 유사한 문서 또는 증명서를 발급하거나, 또는 그 감독하에서 이들 문서 또는 증명서가 발급되도록 한다.
3. 상기와 같이 발급되는 문서 또는 증명서는 외국인이 본국의 기관으로부터 또는 이를 통하여 발급받는 공문서를 대신하는 것이 되고, 또한 반증이 없는 한 공신력을 가진다.

4. 빈곤한 자에게 인정될 수 있는 예외적인 대우가 있는 것을 조건으로 하여, 이 조에 규정하는 사무에 대하여 수수료를 부과할 수 있다. 그러나 그러한 수수료는 적절하여야 하고 유사한 사무에 대하여 자국민에게 부과되는 수수료에 상응하는 것이어야 한다.
5. 이 조항의 규정은 제27조와 제28조의 적용을 방해하지 아니한다.

### 제26조 이동의 자유

각 체약국은 합법적으로 자국 영역 내에 체재하고 있는 난민에게, 동일한 사정하에서 일반적으로 외국인에게 적용되는 규제에 따를 것을 조건으로 하여, 그 영역 내에서 거주지를 선택하고 자유롭게 이동할 권리를 인정한다.

### 제27조 신분증명서

체약국은 그 영역 내에 있으면서 유효한 여행증명서를 가지고 있지 아니한 난민에게 신분증명서를 발급한다.

### 제28조 여행증명서

1. 체약국은 합법적으로 자국영역 내에 체재하고 있는 난민에게 국가안보 또는 공공질서를 위한 불가피한 사유가 없는 한, 그 영역 밖으로의 여행을 위한 여행증명서를 발급하고, 이 여행증명서에 관하여서는 이 협약의 부속서의 규정을 적용한다. 체약국은 그 영역 내에 있는 다른 난민에게도 이러한 여행증명서를 발급할 수 있고, 또한 특히 그 영역 내에 있는 난민으로서 그가 합법적으로 거주하고 있는 국가로부터 여행증명서를 발급받을 수 없는 자에게도 이러한 여행증명서의 발급에 관하여 호의적으로 고려한다.
2. 종전의 국제협정의 체약국이 그 협정이 정하는 바에 따라 난민에게 발급한 여행증명서는 그것이 이 조에 따라 발급되는 것으로서 이 협약의 체약국에 의하여 인정되고 동일하게 취급된다.

### 제29조 재정 공과금

1. 체약국은 난민에게 유사한 상황에서 자국민에게 부과하고 있거나 부과할 (명칭에 관계없이) 세금, 공과금 이외의 별도의 것이나 고율의 것을 부과하지 아니한다.
2. 상기 조항은 외국인에게 신분증명서를 포함한 행정상 문서 발급에 대한 수수료에 관한 법규를 난민에게 적용하는 것을 방해하지 아니한다.

### 제30조 자산의 이전

1. 체약국은 자국의 법령에 따라 난민에게 그가 그 영역 내에 반입한 자산을 재정착을 목적으로 입국이 허가된 다른 국가로 이전하는 것을 허가한다.
2. 체약국은 난민이 입국이 허가된 다른 국가에서 그가 재정착하는데 필요한 자산의 이전허가 신청을 하는 경우 그 자산의 소재지에 관계없이 그 신청을 호의적으로 고려한다.

### 제31조 피난국에 불법으로 체재하고 있는 난민

1. 체약국은 이 협약 제1조와 같은 의미로 그들의 생명과 자유가 위협받는 영역에서 직접 탈출해 온 난민에게, 그들이 불법적으로 자국 영역 내에 입국하고 또는 체류하고 있다는 이유로 형벌을 과하여서는 아니된다. 다만 그 난민이 지체없이 국가기관에 출두하고 그들의 불법적인 입국 또는 체재에 대한 상당한 이유를 제시할 것을 조건으로 한다.
2. 체약국은 상기한 난민의 이주에 대하여 필요 이상의 제한을 가하지 아니하며, 또한 그러한 제한은 그 난민이 그 국가에서의 지위가 합법적으로 정하여지고 또는 그 난민이 다른 국가에의 입국허가를 얻을 때까지만 적용된다. 체약국은 그러한 난민에게 다른 국가에의 입국허가를 얻기 위하여 타당하다고 인정되는 기간과 이를 위하여 필요한 모든 편의를 부여한다.

### 제32조 추 방

1. 체약국은 국가안보 또는 공공질서를 이유로 하는 경우를 제외하고 합법적으로 자국영역 내에 체재하고 있는 난민을 추방하여서는 아니된다.
2. 이러한 난민의 추방은 적법절차에 따라 내려진 결정에 의하여서만 이루어져야 한다. 달리 국가안보를 위하여 불가피한 이유가 있는 경우를 제외하고, 그 난민은 자신이 추방될 이유가 없다는 결백함을 밝히는 증거를 제시하고, 또한 관할기관 또는 관할기관이 특별히 지명한 자에게 이의를 신청하고 이 목적을 위하여 대리인을 내세우는 것이 인정된다.
3. 체약국은 이러한 난민에게 다른 국가에의 합법적인 입국허가를 얻을 수 있는 상당한 기간을 부여한다. 체약국은 그 기간동안 필요하다고 보는 국내조치를 취할 권한을 유보한다.

### 제33조 추방 및 송환의 금지

1. 체약국은 난민을 어떠한 방법으로도 인종, 종교, 국적, 특정사회집단의 구성원 신분 또는 정치적 의견을 이유로 그 생명 또는 자유가 위협받을 우려가 있는 영역의 국경으로 추방하거나 송환하여서는 아니된다.
2. 그러나 이 규정에 의한 이익은 그가 있는 국가의 안보에 위협하다고 인정되는 상당한 이유가 있고, 또는 특히 중대한 범죄를 저지른 것에 대한 최종적인 유죄판결이 내려지고 그 국가공동체에 대하여 위협한 존재가 되는 난민에 의하여는 요구될 수 없다.

### 제34조 귀 화

체약국은 난민의 자국에의 동화 및 귀화를 가능한 한 장려한다. 체약국은 특히 귀화절차를 신속히 행하기 위하여 또한 이러한 절차에 따른 수수료와 비용을 가능한 한 경감시키기 위하여 모든 노력을 다한다.

## 제6장 집행 및 경과규정

### 제35조 국가기관과 국제연합과의 협력

1. 체약국은 국제연합 난민고등판무관 사무소 또는 이를 승계하는 국제연합의 다른 기관의 임무수행에 있어서 이들 기관과 협력할 것을 약속하고, 특히 이들 기관이 이 협약의 규정 적용을 감독하는 임무를 원활히 수행할 수 있도록 편의를 제공한다.
2. 체약국은 고등판무관 사무소 또는 이를 승계하는 국제연합의 다른 기관이 국제연합의 관할기관에 보고를 할 수 있게 하기 위하여 요청에 따른 다음에 관한 정보 및 통계자료를 적당한 양식으로 제공할 것을 약속한다.

- (a) 난민의 상태
- (b) 이 협약의 이행 상황, 그리고
- (c) 난민에 관한 현행 법령 및 장차 시행될 법령.

### 제36조 국내법에 관한 정보

체약국은 국제연합 사무총장에게 이 협약의 적용을 확보하기 위하여 제정하는 국내 법령을 통보한다.

### 제37조 종전의 협약과의 관계

1. 이 협약 제28조 제2항을 침해함이 없이, 이 협약은 체약국간에 1922년 7월 5일, 1924년 5월 31일, 1926년 5월 12일, 1928년 6월 30일 및 1935년 7월 30일의 협정과, 1933년 10월 28일 및 1938년 2월 10일의 협약, 1939년 9월 14일의 의정서 및 1946년 10월 15일의 협정을 대신한다.

## 제7장 최종조항

### 제38조 분쟁 해결

이 협약의 해석 또는 적용에 관한 체약국간의 어떠한 분쟁도 다른 방법에 의하여 해결될 수 없는 것은 분쟁당사국중 어느 일방당사국의 요청에 따라 국제사법재판소에 회부한다.

### 제39조 서명, 비준 및 가입

1. 이 협약은 1951년 7월 28일에 제네바에서 서명을 위하여 개방되고 이후 국제연합 사무총장에게 기탁된다. 이 협약은 1951년 7월 28일에서 동년 8월 31일까지 국제연합 유럽사무국에서, 동년 9월 17일에서 1952년 12월 31일까지 국제연합 본부에서 서명을 위하여 다시 개방된다.
2. 이 협약은 국제연합의 모든 회원국과, 또한 난민 및 무국적자의 지위에 관한 전권대사 회의에 참석하도록 초청된 국가 또는 국제연합 총회에 의하여 서명하도록 초청 받은 국가의 서명을 위하여 개방된다. 이 협약은 비준되고 비준서는 국제연합 사무총장에게 기탁된다.
3. 이 협약은 이 조 제2항에서 언급된 국가들의 가입을 위하여 1951년 7월 28일부터 개방된다. 가입은 국제연합 사무총장에게 가입서를 기탁함으로써 이루어진다.

### 제40조 적용영역 조항

1. 어떠한 국가도 서명, 비준 또는 가입시에 그 국가가 국제관계의 책임을 지고 있는 영역의 전부 또는 일부에 관하여 이 협약을 적용한다는 것을 선언할 수 있다. 그러한 선언은 이 협약이 관련국에 대하여 발효할 때 효력을 발생한다.
2. 그후에는 국제연합 사무총장에게 언제든지 통고함으로써 그러한 적용을 행하고, 또한 그러한 적용은 국제연합 사무총장이 통고를 받은 날로부터 90일 후 또는 관련국



에 대하여 이 협약이 발효한 날의 양자중 늦은 날부터 효력을 발생한다.

3. 각 관련국은 서명, 비준 또는 가입시에 이 협약이 적용되지 아니하는 영역에 관하여, 이 협약의 적용을 확대하기 위하여 헌법상 이유로 필요한 경우에 그러한 영역의 정부의 동의를 조건으로 하여 필요한 조치를 취할 가능성을 검토한다.

#### 제41조 연방조항

1. 체약국이 연방제국가이거나 또는 단일제국가가 아닌 경우에는, 다음 규정을 적용한다.

(a) 연방의 입법기관의 입법권의 범위내에 속하는 이 협약의 규정에 관하여는, 연방 정부의 의무는 연방제국가가 아닌 체약국의 의무와 동일하다.

(b) 이 협약의 규정으로서 그 실시가 연방구성국, 주 또는 현의 입법권의 범위 내에 속하고, 연방의 헌법제도상 연방구성국, 주 또는 현이 입법조치를 취할 의무가 없는 것에 관하여는, 연방정부는 연방구성국, 주 또는 현의 적절한 기관에 대하여 가능한 한 신속히 호의적인 권고로서 이 규정을 통보한다.

(c) 이 협약의 체약국인 연방제국가는 국제연합 사무총장을 통하여 전달된 다른 체약국으로부터 요청이 있는 경우, 이 협약의 특정규정에 관한 연방 및 그 구성단위의 법과 관행에 관하여 설명하고, 또한 입법조치 또는 다른 조치에 의하여 그 규정이 어느 정도 효과적으로 이행되고 있는지를 증명한다.

#### 제42조 유 보

1. 어떠한 국가도 서명, 비준 또는 가입시에 이 협약 제1조, 제3조, 제4조, 제16조 제1항, 제33조, 제36조 부터 제46조를 제외한 조항에 대하여 유보를 할 수 있다.
2. 이조 제1항에 따라 유보를 한 어떠한 국가도 국제연합 사무총장에게 통고함으로써 유보를 언제든지 철회할 수 있다.

#### 제43조 발 효

1. 이 협약은 여섯번째 비준서 또는 가입서가 기탁된 날로부터 90일 후에 발효한다.
2. 이 협약은 여섯번째 비준서 또는 가입서가 기탁된 후 협약을 비준 또는 가입하는 국가에 대하여는, 그 비준서 또는 가입서가 기탁된 날로부터 90일 후에 발효한다.

#### 제44조 폐 기

1. 어떠한 체약국도 국제연합 사무총장에게 통고함으로써 이 협약을 언제든지 폐기할 수 있다.
2. 폐기는 국제연합 사무총장이 통고를 받은 날로부터 1년 후에 관련 체약국에 대하여 효력을 발생한다.
3. 제40조에 따라 선언 또는 통고를 행한 국가는 그 후 언제든지 국제연합 사무총장에게 통고함으로써 상기한 영역에 이 협약의 적용을 중지한다는 선언을 할 수 있다. 그 선언은 국제연합 사무총장이 통고 받은 날로부터 1년 후에 효력을 발생한다.

#### 제45조 개 정

1. 어떠한 체약국도 국제연합 사무총장에게 통고함으로써 언제든지 이 협약의 개정을 요청할 수 있다.
2. 국제연합 총회는 상기 요청에 관하여 조치가 필요한 경우 이를 권고한다.

#### 제46조 국제연합 사무총장에 의한 통보

1. 국제연합 사무총장은 모든 국제연합 회원국과 제39조에 규정된 비회원국에 대하여 다음 사항을 통보한다.

(a) 제1조 제B항에 의한 선언 및 통고

- (b) 제39조에 의한 서명, 비준 및 가입
- (c) 제40조에 의한 선언 및 통고
- (d) 제42조에 의한 유보 및 철회
- (e) 제43조에 의한 이 협약의 발효일
- (f) 제44조에 의한 폐기 및 통고
- (g) 제45조에 의한 개정의 요청

이상의 약속으로서 하기 서명자는 각자의 정부를 대표하여 적법한 위임을 받고 이 협약에 서명하였다.

1951년 7월 28일 제네바에서 영어와 불어로 된 원본 1통을 작성하고, 원본은 국제연합 문서보존국에 기탁되고, 그 인증등본은 모든 국제연합 회원국과 제39조에 규정된 비회원국에게 송부된다.

## 부 속 서

### 제 1 항

1. 이 협약 제28조에 규정된 여행증명서는 부록에 첨부된 견본과 유사한 것으로 한다.
2. 증명서는 적어도 2개 언어로 작성되고, 그중 하나는 영어 또는 불어로 한다.

### 제 2 항

증명서를 발급하는 국가의 규칙에 따를 것을 조건으로 하여, 어린이는 부모중 한사람의 여행증명서 또는 예외적인 경우에는 다른 성인 난민의 여행증명서에 포함될 수 있다.

### 제 3 항

증명서의 발급에 대하여 징수하는 수수료는 자국민의 여권발급에 드는 수수료의 최저액을 초과하여서는 아니된다.

### 제 4 항

특별한 경우 또는 예외적인 경우를 제외하고, 증명서는 가능한 한 다수의 국가에 대하여 유효한 것으로 발급된다.

### 제 5 항

증명서는 발급기관의 재량에 따라 1년 또는 2년의 유효기간을 가진다.

### 제 6 항

1. 증명서의 유효기간의 갱신 또는 연장은, 그 증명서의 소지인이 합법적으로 다른 국가의 영역 내에서 정착하지 아니하는 한, 또한 증명서의 발급기관이 있는 국가의 영역 내에서 합법적으로 거주하고 있는 한, 그 발급기관의 권한에 속한다.
2. 이 목적을 위하여 특히 권한을 위임받은 외교기관 또는 영사기관은, 6개월을 초과하지 아니하는 범위내에서 자국정부가 발급한 여행증명서의 유효기간을 연장할 수 있는 권한을 가진다.
3. 체약국은 이미 자국 영역 내에서는 합법적으로 거주하고 있지 아니하면서 현재 합

법적으로 거주하고 있는 국가로부터 여행증명서를 발급받을 수 없는 난민에 대하여 여행증명서의 유효기간의 갱신, 연장, 또는 새로운 증명서의 발급에 대하여 호의적으로 고려한다.

### 제 7 항

체약국은 이 협약 제28조 규정에 따라 발급된 증명서의 효력을 인정한다.

### 제 8 항

난민이 가기를 원하는 국가의 관할기관은 그의 입국을 인정할 용의가 있고, 또한 사증이 필요하다면, 그가 소지한 증명서에 사증을 부여한다.

### 제 9 항

1. 체약국은 최종 목적지가 되는 국가의 사증을 받은 난민에게 통과사증을 발급할 것을 약속한다.
2. 통과사증의 발급은 외국인에게 사증의 발급을 거부할 수 있는 정당한 사유에 의하여 거부할 수 있다.

### 제 10 항

출국사증, 입국사증 또는 통과사증의 발급에 대한 수수료는 외국여권에 사증을 부여하는 경우의 수수료의 최저액을 초과하여서는 아니된다.

### 제 11 항

난민이 다른 체약국의 영역 내에서 합법적으로 거주를 정한 경우, 새로운 증명서를 발급하는 책임은 제28조의 규정에 따라 그 영역의 관할기관에 있고, 그 난민은 그 기관에 발급을 신청할 수 있다.

### 제 12 항

새로운 증명서를 발급하는 기관은 종전의 증명서를 회수하고, 증명서에 그것이 반송

되도록 기재되어 있는 경우, 증명서를 발급해 준 국가에 이를 반송한다. 그러한 기재가 없는 경우에는 그 발급기관은 회수한 증명서를 무효로 한다.

### 제 13 항

1. 각 체약국은 이 협약 제28조에 따라 발급된 증명서의 소지인이 그 증명서의 유효기간동안 언제든지 자국의 영역에 재입국하는 것을 허가할 것을 약속한다.
2. 체약국은 전항의 규정에 따를 것을 조건으로 하여 증명서의 소지인에게 자국 영역의 출입국에 관하여 정하여진 절차에 따를 것을 요구할 수 있다.
3. 체약국은 예외적인 경우, 또는 난민의 체재가 일정기간 동안만 인정되는 경우, 증명서를 발급할 때, 그 난민이 체약국의 영역에 돌아올 수 있는 기간을 적어도 3개월에 미달하지 아니하는 기간으로 제한할 수 있는 권리를 가진다.

### 제 14 항

제13항의 규정만은 예외로, 이 부속서의 규정은 체약국의 영역에의 입국, 통과, 거주, 정착 및 출국에 관한 조건을 규율하는 법령에 어떠한 영향도 미치지 아니한다.

### 제 15 항

증명서의 발급 또는 이의 기재사항은 그 소지인의 지위, 특히 국적을 결정하거나 이에 영향을 미치지 아니한다.

### 제 16 항

증명서의 발급은 그 소지인에게 발급국의 외교기관 또는 영사기관에 의한 보호를 결코 부여하는 것이 아니며, 또한 이들 기관에 대하여 그를 보호할 권리를 부여하는 것도 아니다.

## < 부 록 >

### 여행증명서 견본양식

여행증명서는 소책자의 형식(약 세로 15센티미터, 가로 10 센티미터)을 갖춘다.

여행증명서는, 화학적 방법 또는 다른 방법에 의하여 지워지거나 수정되는 일이 용이하지 않도록 인쇄되고, 또한 “1951년 7월 28일의 협약”의 용어를, 발급국의 언어로, 각 쪽마다 계속 반복 인쇄하기를 권장한다.

(소책자 표지)

여 행 증 명 서  
(1951년 7월 28일 협약)

번호 .....

(1)

여 행 증 명 서  
(1951년 7월 28일 협약)

이 증명서는, 그 유효기간이 연장되거나 또는 갱신되지 아니하는 한,  
.....년.....월.....일에 효력을 상실한다.

성 .....

명 .....

동반자녀 .....인

1. 이 증명서는, 이 증명서 소지인에 대하여 국가발행여권을 대신하는 여행증명서를 부여할 목적으로만 발급된다. 이 증명서는 소지인의 국적을 증명하는 것이 아니며, 또한 그의 국적에 여하한 영향도 미치지 아니한다.

2. 이 증명서 소지인은, 다음 일시 이후에 일시가 별도로 명시되지 아니하는 한 .....년.....월.....일 이전에 ..... [여기에는 증명서 발급기관이 속하는 국가를 기입]에 돌아오는 것을 인정한다.

[소지인이 돌아오는 것이 인정되는 기간은 3개월보다 짧은기간이어서는 아니된다]

3. 증명서 소지인이 이 증명서의 발급국 이외의 국가에 거주하는 경우, 그가 다시 여행을 하기를 원한다면, 소지인은, 거주국의 관할기관에 대하여 새로운 여행증명서의 발급을 신청하여야 한다.

[구 여행증명서는 새로운 여행증명서를 발급한 기관에 의하여 회수되어 이 증명서의 발급국에 반송된다.]<sup>1)</sup>

(이 증명서는 표지를 제외하고 .....페이지를 포함한다.)

1. [ ]의 문구는, 발급국의 정부가 희망하는 경우에 삽입한다.

(2)

출생지 및 생년월일 .....

직 업 .....

거 주 지 .....

처의 성명 .....

부의 성명 .....



## 특 징

신 장 .....  
 머리색 .....  
 눈 색 .....  
 코의 생김새 .....  
 얼굴형태 .....  
 피부색 .....  
 특기사항 .....

## 동 반 자 녀

성	명	출생지 및 생년월일	성 별
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

\* 적용되지 아니한 사항은 삭제한다.

(이 증명서는 표지를 제외하고 .....페이지를 포함한다.)

---

(3)

소지인의 사진 및 발급기관의 직인  
 (필요한 경우) 소지인의 지문

소지인 서명 .....

(이 증명서는 표지를 제외하고 .....페이지를 포함한다.)

---

(4)

1. 이 증명서는 다음과 같은 국가에서 유효하다.

.....  
.....  
.....

2. 이 증명서의 발급의 기초가 된 문서.

.....  
.....  
.....발급지  
.....

발급일 .....

증명서 발급기관의 서명 날인:

수수료:

(이 증명서는 표지를 제외하고 .....페이지를 포함한다.)

.....(5)

유효기간의 연장 또는 갱신

수수료: .....년.....월.....일 에서

.....년.....월.....일 까지

장 소 ..... 일 시 .....

증명서 유효기간의 연장 또는 갱신을 한  
기관의 서명날인:

.....

유효기간의 연장 또는 갱신

수수료: .....년.....월.....일 에서  
.....년.....월.....일 까지  
장 소 ..... 일 시 .....  
증명서 유효기간의 연장 또는 갱신을 한  
기관의 서명날인:

---

(6)

유효기간의 연장 또는 갱신

수수료: .....년.....월.....일 에서  
.....년.....월.....일 까지  
장 소 ..... 일 시 .....  
증명서 유효기간의 연장 또는 갱신을 한  
기관의 서명날인:

---

유효기간의 연장 또는 갱신

수수료: .....년.....월.....일 에서  
.....년.....월.....일 까지  
장 소 ..... 일 시 .....  
증명서 유효기간의 연장 또는 갱신을 한  
기관의 서명날인:

(이 증명서는 표지를 제외하고 .....페이지를 포함한다.)

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(7-32)

## 사 증

이 증명서 소지인의 성명은 각 사증마다 기재되어야 한다.

(이 증명서는 표지를 제외하고 .....페이지를 포함한다.)



## 난민의 지위에 관한 의정서

(1967년 1월 31일)

이 의정서의 당사국은,

1951년 7월 28일 제네바에서 채택된 난민의 지위에 관한 협약(이하 협약이라 함)이 1951년 1월 1일 이전에 발생한 사건의 결과로서 난민이 되었던 자에게만 적용된다는 점을 고려하고,

협약이 채택된 이후에 새로운 사태에 의하여 난민이 발생하였고 따라서 이러한 난민은 협약의 적용범위에 속하지 아니할 수 있다는 점을 고려하고,

1951년 1월 1일의 기준시점에 관계없이 협약의 정의에 해당되는 모든 난민이 동등한 지위를 향유하여야 한다는 것이 바람직하다는 점을 고려하여,

다음과 같이 합의하였다.

### 제1조 일반규정

1. 이 의정서의 당사국은 다음에 정의된 난민에 대하여 협약 제2조에서 제34조까지의 규정을 적용할 것을 약속한다.
2. 이 의정서의 목적상, ‘난민’의 용어는, 이 조 제3항의 적용에 관한 것을 제외하고, 협약 제1조 제A항 제2호에 규정된 ‘1951년 1월 1일 이전에 발생한 사건의 결과로서 또한 .....’ 및 ‘그러한 사건의 결과로서.....’라는 문언이 삭제되었다면 협약 제1조의 정의에 해당하

는 모든 자를 의미한다.

3. 이 의정서는 이 의정서의 당사국에 의하여 어떠한 지역적 제한없이 적용된다. 다만, 협약의 체약국이 된 국가가 협약 제1조 제B항 제1호 (a)에 따른다고 한 선언은 협약의 제1조 제B항 제2호에 의하여 확대되지 아니하는 한 이 의정서에 의하여서도 적용된다.

## 제2조 국가기관과 국제연합과의 협력

1. 이 의정서의 당사국은 국제연합 난민고등판무관 사무소 또는 이를 승계하는 국제연합의 다른 기관의 임무 수행에 있어서 이들 기관과 협력할 것을 약속하고, 또한 특히 이들 기관이 이 의정서의 규정의 적용을 감독하는 임무를 원활히 수행할 수 있도록 편의를 제공한다.
2. 이 의정서의 당사국은 고등판무관 사무소 또는 이를 승계하는 국제연합의 다른 기관이 국제연합의 관할기관에 보고할 수 있게 하기 위하여, 요청에 따른 다음 사항에 관한 정보 및 통계자료를 적당한 양식으로 제공할 것을 약속한다.

(a) 난민의 상태

(b) 이 의정서의 이행 상황

(c) 난민에 관한 현행 법령 또는 장차 시행할 법령

## 제3조 국내법에 관한 정보

이 의정서의 당사국은 국제연합 사무총장에게 이 의정서의 적용을 확보하기 위하여 제정하는 국내법령을 통보한다.

## 제4조 분쟁 해결

이 의정서의 해석 또는 적용에 관한 이 의정서의 당사국간의 어떠한 분쟁도 다른 방법에 의하여 해결될 수 없는 것은 분쟁당사국중 어느 일방당사국의 요청에 따라 국제

사법재판소에 회부한다.

### 제5조 가 입

이 의정서는 협약의 모든 체약국 및 국제연합의 다른 회원국 또는 전문기관의 회원국 또는 국제연합 총회에 의하여 이 의정서에 가입하도록 초청받은 국가의 가입을 위하여 개방된다. 가입은 국제연합 사무총장에게 가입서를 기탁함으로써 이루어진다.

### 제6조 연방조항

당사국이 연방제국가이거나 또는 단일제국가가 아닌 경우에는, 다음 규정을 적용한다.

- (a) 이 의정서 제1조 제1항에 따라 적용될 협약의 규정으로서 연방의 입법기관의 입법권의 범위 내에 속하는 이 협약의 규정에 관하여는, 연방정부의 의무는 연방제 국가가 아닌 당사국의 의무와 동일하다.
- (b) 이 의정서 제1조 제1항에 따라 적용될 협약의 규정으로서 그 실시가연방구성국, 주 또는 현의 입법권에 속하고, 연방의 헌법제도상 연방구성국, 주 또는 현이 입법조치를 취할 의무가 없는 것에 관하여는, 연방정부는 연방구성국, 주 또는 현의 적절한 기관에 대하여 가능한 한 신속히 호의적인 권고로서 이 규정을 통보한다.
- (c) 이 의정서의 당사국인 연방제국가는 국제연합 사무총장을 통하여 전달된 다른 당사국으로부터 요청이 있는 경우, 이 의정서 제1조 제1항에 따라 적용되는 협약의 특정규정에 관한 연방 및 그 구성단위의 법과 관행에 관하여 설명하고, 또한 입법조치 또는 다른 조치에 의하여 그 규정이 어느 정도 효과적으로 이행되고 있는지를 증명한다.

### 제7조 유보 및 선언

1. 어떠한 국가도 가입시에 이 의정서 제4조에 관하여 또한 이 의정서 제1조에 따른 협약 제1조, 제3조, 제4조, 제16조 제1항 및 제33조를 제외한 규정에 대하여 유보를 할

수 있다. 다만, 협약 당사국이 이 조에 의하여 행한 유보는 이 협약의 적용을 받는 난민에 대하여는 적용되지 아니한다.

2. 협약 제42조에 따라 협약 당사국이 한 유보는 철회되지 아니하는 한 이 의정서에 의한 당사국의 의무에 대하여도 적용된다.
3. 이 조 제1항에 따라 유보를 한 어떠한 국가도 국제연합 사무총장에게 통고함으로써 유보를 언제든지 철회할 수 있다.
4. 협약 체약국으로서 이 의정서에 가입한 국가는 협약 제40조 제1항 및 제2항에 의하여 행한 선언은, 관련당사국이 이 의정서의 가입시에 국제연합 사무총장에게 달리 통고를 하지 아니하는 한, 이 의정서에 대하여서도 적용되는 것으로 본다. 협약 제40조 제2항 및 제3항, 또한 제44조 제3항의 규정도 이 의정서에 준용한다.

#### 제8조 발 효

1. 이 의정서는 여섯번째 가입서가 기탁되는 날에 발효한다.
2. 이 의정서는 여섯번째 가입서가 기탁된 후 의정서에 가입하는 국가에 대하여는, 그 가입서가 기탁된 날에 발효한다.

#### 제9조 폐 기

1. 어떠한 당사국도 국제연합 사무총장에게 통고함으로써 이 의정서를 언제든지 폐기할 수 있다.
2. 폐기는 국제연합 사무총장이 통고를 받은 날로부터 1년 후에 관련 당사국에 대하여 효력을 발생한다.

#### 제10조 국제연합 사무총장에 의한 통보

국제연합 사무총장은 제5조에 규정된 국가에 대하여 이 의정서의 발효일, 가입, 유보, 유



보의 철회, 폐기 및 이 의정서에 관계된 선언과 통고를 통보한다.

#### 제11조 국제연합 사무국의 문서보존국에의 기탁

이 의정서는 중국어, 영어, 불어, 러시아어 및 스페인어로 된 원본 1통으로 작성되고, 원본은 국제연합 총회의장 및 국제연합 사무총장에 의하여 서명되었고 국제연합 사무국의 문서보존국에 기탁된다.

국제연합 사무총장은 이 인증등본을 모든 국제연합 회원국 및 이들 회원국외에 상기 제5조에 규정된 국가에 송부한다.

## CONVENTION RELATING TO THE STATUS OF REFUGEES

### PREAMBLE

#### THE HIGH CONTRACTING PARTIES,

**CONSIDERING** that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

**CONSIDERING** that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of these fundamental rights and freedoms,

**CONSIDERING** that it is desirable to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope of and protection accorded by such instruments by means of a new agreement,

**CONSIDERING** that the grant 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,

**EXPRESSING** the wish that all States, recognizing the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States,

**NOTING** that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner,

**HAVE AGREED** as follows:



## CHAPTER I: General Provisions

### Article 1

#### DEFINITION OF THE TERM "REFUGEE"

A. For the purposes of the present Convention, the term "refugee" shall apply to any person who:

- (1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section;

- (2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

B. (1) For the purposes of this Convention, the words "events occurring



before 1 January 1951” in article 1, section A, shall be understood to mean either

- (a) “events occurring in Europe before 1 January 1951”; or
- (b) “events occurring in Europe or elsewhere before 1 January 1951”, and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.

(2) Any Contracting State which has adopted alternative (a) may at any time extend its obligations by adopting alternative (b) by means of a notification addressed to the Secretary-General of the United Nations.

C. This Convention shall cease to apply to any person falling under the terms of section A if:

- (1) He has voluntarily re-availed himself of the protection of the country of his nationality; or
- (2) Having lost his nationality, he has voluntarily re-acquired it, or
- (3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
- (4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or
- (5) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;

Provided that this paragraph shall not apply to a refugee falling under section A(1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;

- (6) Being a person who has no nationality he is, because of the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence;

Provided that this paragraph shall not apply to a refugee falling



under section A (1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.

E. This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

- (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
- (c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

## Article 2

### GENERAL OBLIGATIONS

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.





Article 3

**NON-DISCRIMINATION**

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

Article 4

**RELIGION**

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practice their religion and freedom as regards the religious education of their children.

Article 5

**RIGHTS GRANTED APART FROM THIS CONVENTION**

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

Article 6

**THE TERM "IN THE SAME CIRCUMSTANCES"**

For the purposes of this Convention, the term "in the same circumstances" implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

Article 7

**EXEMPTION FROM RECIPROCITY**

1. Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is ac-



corded to aliens generally.

2. After a period of three years' residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.

3. Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.

4. The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to refugees who do not fulfil the conditions provided for in paragraphs 2 and 3.

5. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

#### Article 8

##### **EXEMPTION FROM EXCEPTIONAL MEASURES**

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality. Contracting States which, under their legislation, are prevented from applying the general principle expressed in this article, shall, in appropriate cases, grant exemptions in favour of such refugees.

#### Article 9

##### **PROVISIONAL MEASURES**

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.



*Article 10*

**CONTINUITY OF RESIDENCE**

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.
2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has, prior to the date of entry into force of this Convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

*Article 11*

**REFUGEE SEAMEN**

In the case of refugees regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them or their temporary admission to its territory particularly with a view to facilitating their establishment in another country.





## CHAPTER II: Juridical Status

### Article 12

#### PERSONAL STATUS

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.
2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become a refugee.

### Article 13

#### MOVABLE AND IMMOVABLE PROPERTY

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

### Article 14

#### ARTISTIC RIGHTS AND INDUSTRIAL PROPERTY

In respect of the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic, and scientific works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to



nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

#### Article 15

##### **RIGHT OF ASSOCIATION**

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

#### Article 16

##### **ACCESS TO COURTS**

1. A refugee shall have free access to the courts of law on the territory of all Contracting States.
2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the Courts, including legal assistance and exemption from *cautio judicatum solvi*.
3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.



## CHAPTER III: Gainful Employment

### Article 17

#### WAGE-EARNING EMPLOYMENT

1. The Contracting State shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.
2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:
  - (a) He has completed three years' residence in the country;
  - (b) He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefits of this provision if he has abandoned his spouse;
  - (c) He has one or more children possessing the nationality of the country of residence.
3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

### Article 18

#### SELF-EMPLOYMENT

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circum-



stances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

Article 19

**LIBERAL PROFESSIONS**

1. Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practicing a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.
2. The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in the territories, other than the metropolitan territory, for whose international relations they are responsible.



## CHAPTER IV: Welfare

### Article 20

#### **RATIONING**

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.

### Article 21

#### **HOUSING**

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

### Article 22

#### **PUBLIC EDUCATION**

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.
2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

### Article 23

#### **PUBLIC RELIEF**

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.





*Article 24*

**LABOUR LEGISLATION AND SOCIAL SECURITY**

1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters:

- (a) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons, and the enjoyment of the benefits of collective bargaining;
- (b) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:
  - (i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;
  - (ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.

3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.

4. The Contracting States will give sympathetic consideration to ex-



tending to refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non-contracting States.



## CHAPTER V: Administrative Measures

### *Article 25*

#### ADMINISTRATIVE ASSISTANCE

1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.
2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.
3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.
4. Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.
5. The provisions of this article shall be without prejudice to articles 27 and 28.

### *Article 26*

#### FREEDOM OF MOVEMENT

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.





Article 27

**IDENTITY PAPERS**

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

Article 28

**TRAVEL DOCUMENTS**

1. The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.
2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

Article 29

**FISCAL CHARGES**

1. The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.
2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.



Article 30

**TRANSFER OF ASSETS**

1. A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.
2. A Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

Article 31

**REFUGEES UNLAWFULLY IN THE COUNTRY OF REFUGE**

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**

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")**

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.

#### Article 34

##### **NATURALIZATION**

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.



## CHAPTER VI: Executory and Transitory Provisions

### Article 35

#### CO-OPERATION OF THE NATIONAL AUTHORITIES WITH THE UNITED NATIONS

1. The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.

2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning:

- (a) the condition of refugees,
- (b) the implementation of this Convention, and
- (c) laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

### Article 36

#### INFORMATION ON NATIONAL LEGISLATION

The Contracting States shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of this Convention.

### Article 37

#### RELATION TO PREVIOUS CONVENTIONS

Without prejudice to article 28, paragraph 2, of this Convention, this Convention replaces, as between parties to it, the Arrangements of 5 July 1922, 31 May 1924, 12 May 1926, 30 June 1928 and 30 July 1935, the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 and the Agreement of 15 October 1946.



## CHAPTER VII: Final Clauses

### Article 38

#### SETTLEMENT OF DISPUTES

Any dispute between parties to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

### Article 39

#### SIGNATURE, RATIFICATION AND ACCESSION

1. This Convention shall be opened for signature at Geneva on 28 July 1951 and shall thereafter be deposited with the Secretary-General of the United Nations. It shall be open for signature at the European Office of the United Nations from 28 July to 31 August 1951 and shall be re-opened for signature at the Headquarters of the United Nations from 17 September 1951 to 31 December 1952.
2. This Convention shall be open for signature on behalf of all States Members of the United Nations, and also on behalf of any other State invited to attend the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons or to which an invitation to sign will have been addressed by the General Assembly. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. This Convention shall be open from 28 July 1951 for accession by the States referred to in paragraph 2 of this article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.





*Article 40*

**TERRITORIAL APPLICATION CLAUSE**

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.
2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.
3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.

*Article 41*

**FEDERAL CLAUSE**

In the case of a Federal or non-unitary State, the following provisions shall apply:

- (a) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of Parties which are not Federal States;
- (b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of states, provinces or cantons at the



earliest possible moment.

- (c) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.

#### Article 42

##### **RESERVATIONS**

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1, 3, 4, 16(1), 33, 36-46 inclusive.
2. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

#### Article 43

##### **ENTRY INTO FORCE**

1. This Convention shall come into force on the ninetieth day following the day of deposit of the sixth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

#### Article 44

##### **DENUNCIATION**

1. Any Contracting State may denounce this Convention at any time by a notification addressed to the Secretary-General of the United Nations.



2. Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.

3. Any State which has made a declaration or notification under article 40 may, at any time thereafter, by a notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

#### Article 45

##### **REVISION**

1. Any Contracting State may request revision of this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall recommend the steps, if any, to be taken in respect of such request.

#### Article 46

##### **NOTIFICATIONS BY THE SECRETARY-GENERAL OF THE UNITED NATIONS**

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in article 39:

- (a) Of declarations and notifications in accordance with section B of article 1;
- (b) Of signatures, ratifications and accessions in accordance with article 39;
- (c) Of declarations and notifications in accordance with article 40;
- (d) Of reservations and withdrawals in accordance with article 42;
- (e) Of the date on which this Convention will come into force in accordance with article 43;
- (f) Of denunciations and notifications in accordance with article 44;
- (g) Of requests for revision in accordance with article 45.





**IN FAITH WHEREOF** the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments,

**DONE** at Geneva, this twenty-eighth day of July, one thousand nine hundred and fifty-one, in a single copy, of which the English and French texts are equally authentic and which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all Members of the United Nations and to the non-member States referred to in article 39.



## SCHEDULE

### Paragraph 1

1. The travel document referred to in article 28 of this Convention shall be similar to the specimen annexed hereto.
2. The document shall be made out in at least two languages, one of which shall be English or French.

### Paragraph 2

Subject to the regulations obtaining in the country of issue, children may be included in the travel document of a parent or, in exceptional circumstances, of another adult refugee.

### Paragraph 3

The fees charged for issue of the document shall not exceed the lowest scale of charges for national passports.

### Paragraph 4

Save in special or exceptional cases, the document shall be made valid for the largest possible number of countries.

### Paragraph 5

The document shall have a validity of either one or two years, at the discretion of the issuing authority.



Paragraph 6

1. The renewal or extension of the validity of the document is a matter for the authority which issued it, so long as the holder has not established lawful residence in another territory and resides lawfully in the territory of the said authority. The issue of a new document is, under the same conditions, a matter for the authority which issued the former document.
2. Diplomatic or consular authorities, specially authorized for the purpose, shall be empowered to extend, for a period not exceeding six months, the validity of travel documents issued by their Governments.
3. The Contracting States shall give sympathetic consideration to renewing or extending the validity of travel documents or issuing new documents to refugees no longer lawfully resident in their territory who are unable to obtain a travel document from the country of their lawful residence.

Paragraph 7

The Contracting States shall recognize the validity of the documents issued in accordance with the provisions of article 28 of this Convention.

Paragraph 8

The competent authorities of the country to which the refugee desires to proceed shall, if they are prepared to admit him and if a visa is required, affix a visa on the document of which he is the holder.

Paragraph 9

1. The Contracting States undertake to issue transit visas to refugees who have obtained visas for a territory of final destination.
2. The issue of such visas may be refused on grounds which would justify refusal of a visa to any alien.



Paragraph 10

The fees for the issue of exit, entry or transit visas shall not exceed the lowest scale of charges for visas on foreign passports.

Paragraph 11

When a refugee has lawfully taken up residence in the territory of another Contracting State, the responsibility for the issue of a new document, under the terms and conditions of article 28, shall be that of the competent authority of that territory, to which the refugee shall be entitled to apply.

Paragraph 12

The authority issuing a new document shall withdraw the old document and shall return it to the country of issue if it is stated in the document that it should be so returned; otherwise it shall withdraw and cancel the document.

Paragraph 13

1. Each Contracting State undertakes that the holder of a travel document issued by it in accordance with article 28 of this Convention shall be re-admitted to its territory at any time during the period of its validity.
2. Subject to the provisions of the preceding sub-paragraph, a Contracting State may require the holder of the document to comply with such formalities as may be prescribed in regard to exit from or return to its territory.
3. The Contracting States reserve the right, in exceptional cases, or in cases where the refugee's stay is authorized for a specific period, when issuing the document, to limit the period during which the refugee may return to a period of not less than three months.



Paragraph 14

Subject only to the terms of paragraph 13, the provisions of this Schedule in no way affect the laws and regulations governing the conditions of admission to, transit through, residence and establishment in, and departure from, the territories of the Contracting States.

Paragraph 15

Neither the issue of the document nor the entries made thereon determine or affect the status of the holder, particularly as regards nationality.

Paragraph 16

The issue of the document does not in any way entitle the holder to the protection of the diplomatic or consular authorities of the country of issue, and does not confer on these authorities a right of protection.



ANNEX  
SPECIMEN TRAVEL DOCUMENT

The document will be in booklet form (approximately 15 x 10 centimetres). It is recommended that it be so printed that any erasure or alteration by chemical or other means can be readily detected, and that the words "Convention of 28 July 1951" be printed in continuous repetition on each page, in the language of the issuing country.

---

*(Cover of booklet)*  
TRAVEL DOCUMENT  
(Convention of 28 July 1951)

---

N°. .....

(1)

TRAVEL DOCUMENT  
(Convention of 28 July 1951)

This document expires on .....  
unless its validity is extended or renewed.

Name .....

Forename(s) .....

Accompanied by ..... child (children).

1. This document is issued solely with a view to providing the holder with a travel document which can serve in lieu of a national passport. It is without prejudice to and in no way affects the holder's nationality.

2. The holder is authorized to return to .....  
[state here the country whose authorities are issuing the document] on or before .....  
unless some later date is hereafter specified. [The period during which the holder is allowed to return must not be less than three months.]

3. Should the holder take up residence in a country other than that which issued the present document, he must, if he wishes to travel again, apply to the competent authorities of his country of residence for



a new document. [The old travel document shall be withdrawn by the authority issuing the new document and returned to the authority which issued it.]<sup>(1)</sup>

(This document contains.....pages, exclusive of cover.)

---

(2)

Place and date of birth .....

Occupation .....

Present residence .....

\*Maiden name and forename(s) of wife .....

\*Name and forename(s) of husband .....

Description

Height .....

Hair .....

Colour of eyes .....

Nose .....

Shape of face .....

Complexion .....

Special peculiarities .....

Children accompanying holder

Name	Forename(s)	Place and date of birth	Sex
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

\*Strike out whichever does not apply

(This document contains.....pages, exclusive of cover.)

---

(1) The sentence in brackets to be inserted by Governments which so desire.





---

(3)

Photograph of holder and stamp of issuing authority

Finger-prints of holder (if required)

Signature of holder .....

(This document contains.....pages, exclusive of cover.)

---

(4)

1. This document is valid for the following countries: .....

.....  
.....  
.....

2. Document or documents on the basis of which the present document is issued: .....

.....  
.....  
.....

Issued at .....

Date .....

Signature and stamp of authority  
issuing the document:

Fee paid:

(This document contains.....pages, exclusive of cover.)

---

(5)

Extension or renewal of validity

Fee paid: From .....





To .....

Done at ..... Date .....

Signature and stamp of authority  
extending or renewing the validity  
of the document:

Extension or renewal of validity

Fee paid: From .....  
To .....

Done at ..... Date .....

Signature and stamp of authority  
extending or renewing the validity  
of the document:

(This document contains ..... pages, exclusive of cover.)

(6)

Extension or renewal of validity

Fee paid: From .....  
To .....

Done at ..... Date .....

Signature and stamp of authority  
extending or renewing the validity  
of the document:

Extension or renewal of validity

Fee paid: From .....  
To .....

Done at ..... Date .....

Signature and stamp of authority  
extending or renewing the validity





UNHCR, United Nations High Commissioner for Refugees

## States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol

Date of entry into force:  
22 April 1954 (Convention)  
4 October 1967 (Protocol)

### *As of 1 November 2007*

Total number of States Parties to the 1951 Convention:	144
Total number of States Parties to the 1967 Protocol:	144
States Parties to both the Convention and Protocol:	141
States Parties to one or both of these instruments:	147

### *States Parties to the 1951 Convention only:*

Madagascar, Monaco, Saint Kitts and Nevis

### *States Parties to the 1967 Protocol only:*

Cape Verde, United States of America, Venezuela

The Convention was adopted by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, held at Geneva from 2 to 25 July 1951. The Conference was convened pursuant to resolution 429 (V), adopted by the General Assembly of the United Nations on 14 December 1950.

The dates indicated are the dates of deposit of the instrument of ratification or accession by the respective States Parties with the Secretary-General of the United Nations in New York. In accordance with article 43(2), the Convention enters into force on the ninetieth day after the date of deposit. The Protocol enters into force on the date of deposit (article VIII (2)). Exceptions are indicated below.

### *Most recent ratification:*

Montenegro	10 Oct 2006 d	10 Oct 2006 d
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Country	Convention	Protocol
Afghanistan	30 Aug 2005 a	30 Aug 2005 a
Albania	18 Aug 1992 a	18 Aug 1992 a
Algeria	21 Feb 1963 d	08 Nov 1967 a
Angola	23 Jun 1981 a	23 Jun 1981 a
Antigua and Barbuda	07 Sep 1995 a	07 Sep 1995 a
Argentina	15 Nov 1961 a	06 Dec 1967 a
Armenia	06 Jul 1993 a	06 Jul 1993 a
Australia	22 Jan 1954 a	13 Dec 1973 a
Austria	01 Nov 1954 r	05 Sep 1973 a
Azerbaijan	12 Feb 1993 a	12 Feb 1993 a



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Bahamas	15 Sep 1993 a	15 Sep 1993 a
Belarus	23 Aug 2001 a	23 Aug 2001 a
Belgium	22 Jul 1953 r	08 Apr 1969 a
Belize	27 Jun 1990 a	27 Jun 1990 a
Benin	04 Apr 1962 d	06 Jul 1970 a
Bolivia	09 Feb 1982 a	09 Feb 1982 a
Bosnia and Herzegovina	01 Sep 1993 d	01 Sep 1993 d
Botswana	06 Jan 1969 a	06 Jan 1969 a
Brazil	16 Nov 1960 r	07 Apr 1972 a
Bulgaria	12 May 1993 a	12 May 1993 a
Burkina Faso	18 Jun 1980 a	18 Jun 1980 a
Burundi	19 Jul 1963 a	15 Mar 1971 a
Cambodia	15 Oct 1992 a	15 Oct 1992 a
Cameroon	23 Oct 1961 d	19 Sep 1967 a
Canada	04 Jun 1969 a	04 Jun 1969 a
Cape Verde (P)		09 Jul 1987 a
Central African Republic	04 Sep 1962 d	30 Aug 1967 a
Chad	19 Aug 1981 a	19 Aug 1981 a
Chile	28 Jan 1972 a	27 Apr 1972 a
China	24 Sep 1982 a	24 Sep 1982 a
Colombia	10 Oct 1961 r	04 Mar 1980 a
Congo	15 Oct 1962 d	10 Jul 1970 a
Congo, Democratic Republic of	19 July 1965 a	13 Jan 1975 a
Costa Rica	28 Mar 1978 a	28 Mar 1978 a
Côte d'Ivoire	08 Dec 1961 d	16 Feb 1970 a
Croatia	12 Oct 1992 d	12 Oct 1992 d
Cyprus	16 May 1963 d	09 Jul 1968 a
Czech Republic	11 May 1993 d	11 May 1993 d
Denmark	04 Dec 1952 r	29 Jan 1968 a
Djibouti	09 Aug 1977 d	09 Aug 1977 d
Dominica	17 Feb 1994 a	17 Feb 1994 a
Dominican Republic	04 Jan 1978 a	04 Jan 1978 a
Ecuador	17 Aug 1955 a	06 Mar 1969 a
Egypt	22 May 1981 a	22 May 1981 a
El Salvador	28 Apr 1983 a	28 Apr 1983 a
Equatorial Guinea	07 Feb 1986 a	07 Feb 1986 a
Estonia	10 Apr 1997 a	10 Apr 1997 a
Ethiopia	10 Nov 1969 a	10 Nov 1969 a
Fiji	12 Jun 1972 d	12 Jun 1972 d
Finland	10 Oct 1968 a	10 Oct 1968 a
France	23 Jun 1954 r	03 Feb 1971 a
Gabon	27 Apr 1964 a	28 Aug 1973 a
Gambia	07 Sep 1966 d	29 Sep 1967 a
Georgia	09 Aug 1999 a	09 Aug 1999 a
Germany	01 Dec 1953 r	05 Nov 1969 a
Ghana	18 Mar 1963 a	30 Aug 1968 a
Greece	05 Apr 1960 r	07 Aug 1968 a
Guatemala	22 Sep 1983 a	22 Sep 1983 a
Guinea	28 Dec 1965 d	16 May 1968 a



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Guinea-Bissau	11 Feb 1976 a	11 Feb 1976 a
Haiti	25 Sep 1984 a	25 Sep 1984 a
Holy See	15 Mar 1956 r	08 Jun 1967 a
Honduras	23 Mar 1992 a	23 Mar 1992 a
Hungary	14 Mar 1989 a	14 Mar 1989 a
Iceland	30 Nov 1955 a	26 Apr 1968 a
Iran, Islamic Republic of	28 Jul 1976 a	28 Jul 1976 a
Ireland	29 Nov 1956 a	06 Nov 1968 a
Israel	01 Oct 1954 r	14 Jun 1968 a
Italy	15 Nov 1954 r	26 Jan 1972 a
Jamaica	30 Jul 1964 d	30 Oct 1980 a
Japan	03 Oct 1981 a	01 Jan 1982 a
Kazakhstan	15 Jan 1999 a	15 Jan 1999 a
Kenya	16 May 1966 a	13 Nov 1981 a
Kyrgyzstan	08 Oct 1996 a	08 Oct 1996 a
Korea, Republic of	03 Dec 1992 a	03 Dec 1992 a
Latvia	31 Jul 1997 a	31 Jul 1997 a
Lesotho	14 May 1981 a	14 May 1981 a
Liberia	15 Oct 1964 a	27 Feb 1980 a
Liechtenstein	08 Mar 1957 r	20 May 1968 a
Lithuania	28 Apr 1997 a	28 Apr 1997 a
Luxembourg	23 Jul 1953 r	22 Apr 1971 a
Macedonia, The Former Yugoslav Republic of	18 Jan 1994 d	18 Jan 1994 d
Madagascar (C)	18 Dec 1967 a	
Malawi	10 Dec 1987 a	10 Dec 1987 a
Mali	02 Feb 1973 d	02 Feb 1973 a
Malta	17 Jun 1971 a	15 Sep 1971 a
Mauritania	05 May 1987 a	05 May 1987 a
Mexico	07 June 2000 a	07 June 2000 a
Moldova, Republic of	31 Jan 2002 a	31 Jan 2002 a
Monaco (C)	18 May 1954 a	
Morocco	07 Nov 1956 d	20 Apr 1971 a
Mozambique	16 Dec 1983 a	01 May 1989 a
Namibia	17 Feb 1995 a	17 Feb 1995 a
Netherlands	03 May 1956 r	29 Nov 1968 a
New Zealand	30 Jun 1960 a	06 Aug 1973 a
Nicaragua	28 Mar 1980 a	28 Mar 1980 a
Niger	25 Aug 1961 d	02 Feb 1970 a
Nigeria	23 Oct 1967 a	02 May 1968 a
Norway	23 Mar 1953 r	28 Nov 1967 a
Panama	02 Aug 1978 a	02 Aug 1978 a
Papua New Guinea	17 Jul 1986 a	17 Jul 1986 a
Paraguay	01 Apr 1970 a	01 Apr 1970 a
Peru	21 Dec 1964 a	15 Sep 1983 a
Philippines	22 Jul 1981 a	22 Jul 1981 a
Poland	27 Sep 1991 a	27 Sep 1991 a
Portugal	22 Dec 1960 a	13 Jul 1976 a
Romania	07 Aug 1991 a	07 Aug 1991 a
Russian Federation	02 Feb 1993 a	02 Feb 1993 a



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Rwanda	03 Jan 1980 a	03 Jan 1980 a
Saint Kitts and Nevis (C)	01 Feb 2002 a	
Saint Vincent and the Grenadines	03 Nov 1993 a	03 Nov 2003 a
Samoa	21 Sep 1988 a	29 Nov 1994 a
Sao Tome and Principe	01 Feb 1978 a	01 Feb 1978 a
Senegal	02 May 1963 d	03 Oct 1967 a
Serbia	12 Mar 2001 d	12 Mar 2001 d
Seychelles	23 Apr 1980 a	23 Apr 1980 a
Sierra Leone	22 May 1981 a	22 May 1981 a
Slovakia	04 Feb 1993 d	04 Feb 1993 d
Slovenia	06 Jul 1992 d	06 Jul 1992 d
Solomon Islands	28 Feb 1995 a	12 Apr 1995 a
Somalia	10 Oct 1978 a	10 Oct 1978 a
South Africa	12 Jan 1996 a	12 Jan 1996 a
Spain	14 Aug 1978 a	14 Aug 1978 a
Sudan	22 Feb 1974 a	23 May 1974 a
Suriname	29 Nov 1978 d	29 Nov 1978 d
Swaziland	14 Feb 2000 a	28 Jan 1969 a
Sweden	26 Oct 1954 r	04 Oct 1967 a
Switzerland	21 Jan 1955 r	20 May 1968 a
Tajikistan	07 Dec 1993 a	07 Dec 1993 a
Tanzania, United Republic of	12 May 1964 a	04 Sep 1968 a
Timor-Leste	07 May 2003 a	07 May 2003 a
Togo	27 Feb 1962 d	01 Dec 1969 a
Trinidad and Tobago	10 Nov 2000 a	10 Nov 2000 a
Tunisia	24 Oct 1957 d	16 Oct 1968 a
Turkey	30 Mar 1962 r	31 Jul 1968 a
Turkmenistan	02 Mar 1998 a	2 Mar 1998 a
Tuvalu	07 Mar 1986 d	07 Mar 1986 d
Uganda	27 Sep 1976 a	27 Sep 1976 a
Ukraine	10 Jun 2002 a	04 Apr 2002 a
United Kingdom of Great Britain and Northern Ireland	11 Mar 1954 r	04 Sep 1968 a
United States of America (P)		01 Nov 1968 a
Uruguay	22 Sep 1970 a	22 Sep 1970 a
Venezuela (P)		19 Sep 1986 a
Yemen	18 Jan 1980 a	18 Jan 1980 a
Zambia	24 Sep 1969 d	24 Sep 1969 a
Zimbabwe	25 Aug 1981 a	25 Aug 1981 a

**Limitations:**

Article 1 B(1) of the 1951 Convention provides: "For the purposes of this Convention, the words 'events occurring before 1 January 1951' in article 1, Section A, shall be understood to mean either (a) 'events occurring in Europe before 1 January 1951'; or (b) 'events occurring in Europe or elsewhere before 1 January 1951', and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purposes of its obligations under this Convention."



UNHCR, United Nations High Commissioner for Refugees

The following States adopted alternative (a), the geographical limitation: Congo, Madagascar, Monaco and Turkey. Turkey expressly maintained its declaration of geographical limitation upon acceding to the 1967 Protocol. Madagascar and Monaco have not yet adhered to the Protocol.

All other States Parties ratified, acceded or succeeded to the Convention without a geographical limitation by selecting option (b), 'events occurring in Europe or elsewhere before 1 January 1951'.

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**Notes:**

\* Ratification (r), Accession (a), Succession (d).

\*\* (C) denotes States Parties to the 1951 Convention only; (P) denotes States Parties to the 1967 Protocol only.

\*\*\* As of 4 February 2003, following the adoption and promulgation of the Constitutional Charter of Serbia and Montenegro by the Assembly of the Federal Republic of Yugoslavia, the official name of "The Federal Republic of Yugoslavia" has been changed to "Serbia and Montenegro".

# Declarations and Reservations to the 1951 Convention relating to the Status of Refugees

*As of 1 March 2006*

*Declarations under section B of article 1 of the Convention  
(Unless otherwise indicated in a footnote, the declarations were  
received upon ratification, accession or succession.)*

*(a) "Events occurring in Europe before 1 January 1951"*

Congo  
Madagascar  
Monaco  
Turkey

*(b) "Events occurring in Europe or elsewhere before 1 January 1951"*

Afghanistan  
Albania  
Algeria  
Angola  
Antigua and Barbuda  
Argentina<sup>11</sup>  
<sup>12</sup>  
Armenia  
Australia<sup>12</sup>  
Austria  
Azerbaijan  
Bahamas  
Belarus  
Belgium  
Belize  
Benin<sup>12</sup>  
Bolivia  
Bosnia and Herzegovina<sup>2</sup>  
Botswana<sup>13</sup>  
Brazil<sup>12</sup>  
Bulgaria  
Burkina Faso  
Burundi  
Cameroon<sup>12</sup>

Canada  
 Central African Republic [12](#)  
 Chad  
 Chile [12](#)  
 China  
 Colombia [11](#)  
[12](#)  
 Costa Rica  
 Côte d'Ivoire [12](#)  
 Croatia [2](#)  
 Cyprus  
 Czech Republic [4](#)  
 Democratic Republic of the Congo  
 Denmark  
 Djibouti  
 Dominica  
 Dominican Republic  
 Ecuador [12](#)  
 Egypt  
 El Salvador  
 Equatorial Guinea  
 Estonia  
 Ethiopia  
 Fiji  
 Finland  
 France [12](#)  
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 Gambia  
 Georgia  
 Germany [5](#)  
 Ghana  
 Greece  
 Guatemala  
 Guinea  
 Guinea-Bissau  
 Haiti  
 Holy See [12](#)  
 Honduras  
 Hungary [11](#)  
[12](#)  
 Iceland



Iran (Islamic Republic of)[12](#)  
Ireland  
Israel  
Italy[12](#)  
Jamaica  
Japan  
Kazakhstan  
Kenya  
Kyrgyzstan  
Latvia[11](#)  
[12](#)  
Lesotho  
Liberia  
Liechtenstein  
Lithuania  
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Mali  
Malta[12](#)  
Mauritania  
Mexico  
Morocco  
Mozambique  
Namibia  
Netherlands  
New Zealand  
Nicaragua  
Niger[12](#)  
Nigeria  
Norway  
Panama  
Papua New Guinea  
Paraguay[11](#)  
[12](#)  
Peru[12](#)  
Philippines  
Poland  
Portugal[12](#)  
Republic of Korea  
Republic of Moldova  
Romania

Russian Federation  
 Rwanda  
 Saint Kitts and Nevis  
 Saint Vincent and the Grenadines  
 Samoa  
 Sao Tome and Principe  
 South Africa  
 Senegal<sup>12</sup>  
 Seychelles  
 Sierra Leone  
 Slovakia<sup>4</sup>  
 Slovenia<sup>2</sup>  
 Solomon Islands  
 Somalia  
 Spain  
 Sudan<sup>12</sup>  
 Suriname  
 Swaziland  
 Sweden  
 Switzerland  
 Tajikistan  
 The Former Yugoslav Republic of Macedonia<sup>2</sup>  
 Timor-Leste  
 Togo<sup>12</sup>  
 Trinidad and Tobago  
 Tunisia  
 Turkmenistan  
 Tuvalu  
 Uganda  
 United Kingdom of Great Britain and Northern Ireland  
 United Republic of Tanzania  
 Uruguay  
 Yemen<sup>10</sup>  
 Serbia and Montenegro<sup>2</sup>  
 Zambia  
 Zimbabwe

## DECLARATIONS

*Declarations other than those made under section B of article 1 and Reservations  
(Unless otherwise indicated, the declarations and reservations were made upon ratification,  
accession or succession. For objections thereto and territorial applications, see hereinafter.)*

### Angola

The Government of the People's Republic of Angola also declares that the provisions of the Convention shall be applicable in Angola provided that they are not contrary to or incompatible with the constitutional and legal provisions in force in the People's Republic of Angola, especially as regards articles 7, 13, 15, 18 and 24 of the Convention. Those provisions shall not be construed so as to accord to any category of aliens resident in Angola more extensive rights than are enjoyed by Angolan citizens.

The Government of the People's Republic of Angola also considers that the provisions of articles 8 and 9 of the Convention cannot be construed so as to limit its right to adopt in respect of a refugee or group of refugees such measures as it deems necessary to safeguard national interests and to ensure respect for its sovereignty, whenever circumstances so require.

In addition, the Government of the People's Republic of Angola wishes to make the following reservations:

*Ad article 17:* The Government of the People's Republic of Angola accepts the obligations set forth in article 17, provided that:

- (a) Paragraph 1 of this article shall not be interpreted to mean that refugees must enjoy the same privileges as may be accorded to nationals of countries with which the People's Republic of Angola has signed special co-operation agreements;
- (b) Paragraph 2 of this article shall be construed as a recommendation and not as an obligation.

*Ad article 26:*

The Government of the People's Republic of Angola reserves the right to prescribe, transfer or circumscribe the place of residence of certain refugees or groups of refugees, and to restrict their freedom of movement, whenever considerations of national or international order make it advisable to do so.

### Australia<sup>15</sup>

### Austria<sup>16</sup>

The Convention is ratified:

- (a) Subject to the reservation that the Republic of Austria regards the provisions of article 17, paragraphs 1 and 2 (excepting, however, the phrase "who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or . . ." in the latter paragraph) not as a binding obligation, but merely as a recommendation.
- (b) Subject to the reservation that the provisions of article 22, paragraph 1, shall not be applicable to the establishment and maintenance of private elementary schools, that the

"public relief and assistance" referred to in article 23 shall be interpreted solely in the sense of allocations from public welfare funds (*Armenversorgung*), and that the "documents or certifications" referred to in article 25, paragraphs 2 and 3 shall be construed to mean the identity certificates provided for in the Convention of 30 June 1928 relating to refugees.

#### **Bahamas**

Reservation:

"Refugees and their dependants would normally be subjected to the same laws and regulations relating generally to the employment of non-Bahamians within the Commonwealth of the Bahamas, so long as they have not acquired status in the Commonwealth of the Bahamas."

#### **Belgium**

1. In all cases where the Convention grants to refugees the most favourable treatment accorded to nationals of a foreign country, this provision shall not be interpreted by the Belgian Government as necessarily involving the régime accorded to nationals of countries with which Belgium has concluded regional customs, economic or political agreements.

2. Article 15 of the Convention shall not be applicable in Belgium; refugees lawfully staying in Belgian territory will enjoy the same treatment, as regards the right of association, as that accorded to aliens in general.

#### **Botswana**

"Subject to the reservation of articles 7, 17, 26, 31, 32 and 34 and paragraph 1 of article 12 of the Convention."

#### **Brazil<sup>17</sup>**

7 April 1972

"Refugees will be granted the same treatment accorded to nationals of foreign countries in general, with the exception of the preferential treatment extended to nationals of Portugal through the Friendship and Consultation Treaty of 1953 and Article 199 of the Brazilian Constitutional Amendment No.1, of 1969."

#### **Canada**

"Subject to the following reservation with reference to Articles 23 and 24 of the Convention:

"Canada interprets the phrase 'lawfully staying' as referring only to refugees admitted for permanent residence: refugees admitted for temporary residence will be accorded the same treatment with respect to the matters dealt with in articles 23 and 24 as is accorded visitors generally."

#### **Chile**

(1) With the reservation that, with reference to the provisions of article 34, the Government of Chile will be unable to grant to refugees facilities greater than those granted to aliens in general, in view of the liberal nature of Chilean naturalization laws;

(2) With the reservation that the period specified in article 17, paragraph 2 (a) shall, in the case of Chile, be extended from three to ten years;

(3) With the reservation that article 17, paragraph 2 (c) shall apply only if the refugee is the widow or the widower of a Chilean spouse;

(4) With the reservation that the Government of Chile cannot grant a longer period for compliance with an expulsion order than that granted to other aliens in general under Chilean law.

#### **China**

"[Subject to] reservations on the following articles:

(1). The latter half of article 14, which reads

'In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.'

(2). Article 16 (3)."

#### **Cyprus<sup>18</sup>**

With confirmation of the reservations made by the Government of the United Kingdom upon application of the Convention to the territory of Cyprus.

#### **Denmark<sup>19</sup>**

25 March 1968

"[Subject to] the following reservation:

The obligation in article 17, paragraph 1, to accord to refugees lawfully staying in Denmark the most favourable treatment accorded to nationals of a foreign country as regards the right to engage in wage-earning employment shall not be construed to mean that refugees shall be entitled to the privileges which in this respect are accorded to nationals of Finland, Iceland, Norway and Sweden."

#### **Ecuador**

[Subject to] the following declarations and reservation:

With respect to article 1, relating to the definition of the term "refugee", the Government of Ecuador declares that its accession to the Convention relating to the Status of Refugees does not imply its acceptance of the Conventions which have not been expressly signed and ratified by Ecuador.

With respect to article 15, Ecuador further declares that its acceptance of the provisions contained therein shall be limited in so far as those provisions are in conflict with the constitutional and statutory provisions in force prohibiting aliens, and consequently refugees, from being members of political bodies.

#### **Egypt**

With reservations in respect of article 12 (1), articles 20 and 22 (1), and articles 23 and 24.

Clarifications (received on 24 September 1981):

1. Egypt formulated a reservation to article 12 (1) because it is in contradiction with the internal laws of Egypt. This article provides that the personal status of a refugee shall be governed by the law of the country of his domicile or, failing this, of his residence. This formula contradicts article 25 of the Egyptian civil code, which reads as follows:

"The judge declares the applicable law in the case of persons without nationality or with more than one nationality at the same time. In the case of persons where there is proof, in

accordance with Egypt, of Egyptian nationality, and at the same time in accordance with one or more foreign countries, of nationality of that country, the Egyptian law must be applied."

The competent Egyptian authorities are not in a position to amend this article (25) of the civil code.

2. Concerning articles 20, 22 (paragraph 1), 23 and 24 of the Convention of 1951, the competent Egyptian authorities had reservations because these articles consider the refugee as equal to the national.

We made this general reservation to avoid any obstacle which might affect the discretionary authority of Egypt in granting privileges to refugees on a case-by-case basis.

#### **Estonia**

"[Subject to the following] reservations ...:

1) to Articles 23 and 24 as follows:

The Republic of Estonia considers articles 23 and 24 merely as recommendatory, not as legally binding.

2) to Article 25 as follows:

The Republic of Estonia shall not be bound to cause a certificate to be delivered by an Estonian authority, in place of the authorities of a foreign country, if documentary records necessary for the delivery of such a certificate do not exist in the Republic of Estonia.

3) to Article 28, paragraph 1 as follows:

The Republic of Estonia shall not be obliged within five years from the entry into force of the present Convention to issue travel documents provided in article 28."

#### **Ethiopia**

"[S]ubject to the following reservations made under the terms of Article 42, paragraph 1, of the Convention and Article VII, paragraph 1, of the Protocol :

The provisions of articles 8, 9, 17 (2) and 22 (1) of the Convention are recognized only as recommendations and not as legally binding obligations."

#### **Fiji**

The Government of Fiji stated that "...[t]he first and fourth reservations made by the United Kingdom are affirmed but have been redrafted as more suitable to the application of Fiji in the following terms:

1. The Government of Fiji understands articles 8 and 9 as not preventing them from taking in time of war or other grave and exceptional circumstances measures in the interests of national security in the case of a refugee on the ground of his nationality. The provisions of article 8 shall not prevent the Government of Fiji from exercising any rights over property and interests which they may acquire or have acquired as an Allied or Associated Power under a Treaty of Peace or other agreement or arrangement for the restoration of peace which has been or may be completed as a result of the Second World War. Furthermore the provisions of article 8 shall not affect the treatment to be accorded to any property or interests which at the date of entry into force of this Convention on behalf of Fiji were under the control of the Government of the United Kingdom of Great Britain and Northern Ireland or of the

Government of Fiji respectively by reason of a state of war which existed between them and any other State.

2. The Government of Fiji cannot undertake to give effect to the obligations contained in paragraphs 1 and 2 of article 25 and can only undertake to apply the provisions of paragraph 3 so far as the law allows.

Commentary:

No arrangements exist in Fiji for the administrative assistance for which provision is made in article 25 nor have any such arrangements been found necessary in the case of refugees. Any need for the documents or certifications mentioned in paragraph 2 of that article would be met by affidavits...

All other reservations made by the United Kingdom to the above-mentioned [Convention are] withdrawn."

#### **Finland<sup>20</sup>**

"[S]ubject to the following reservations:

(1) A general reservation to the effect that the application of those provisions of the Convention which grant to refugees the most favourable treatment accorded to nationals of a foreign country shall not be affected by the fact that special rights and privileges are now or may in future be accorded by Finland to the nationals of Denmark, Iceland, Norway and Sweden or to the nationals of any one of those Countries;

[...]

(5) A reservation to article 24, paragraph 1 (b) and paragraph 3 to the effect that they shall not be binding on Finland;

[...]

#### **France**

In depositing its instrument of ratification, the Government of the French Republic, acting in accordance with article 42 of the Convention, makes the following statements:

(a) It considers that article 29, paragraph 2, does not prevent the application in French territory of the provisions of the Act of 7 May 1934 authorizing the levying of the Nansen tax for the support of refugee welfare, resettlement and relief work.

(b) Article 17 in no way prevents the application of the laws and regulations establishing the proportion of alien workers that employers are authorized to employ in France or affects the obligations of such employers in connexion with the employment of alien workers.

#### **Gambia<sup>21</sup>**

#### **Georgia**

"According to the paragraph 1, article 40 of the [...] Convention, before the full restoration of the territorial integrity of Georgia, this Convention is applicable only to the territory where the jurisdiction of Georgia is exercised."



#### **Greece<sup>22</sup>**

"In cases or circumstances which, in its opinion, would justify exceptional procedure for reasons of national security or public order, the Hellenic Government *reserves* the right to derogate from the obligations imposed by the provisions of article 26."

#### **Guatemala**

The Republic of Guatemala accedes to the Convention relating to the Status of Refugees and its Protocol, with the reservation that it will not apply provisions of those instruments in respect of which the Convention allows reservations if those provisions contravene constitutional precepts in Guatemala or norms of public order under domestic law.

The expression "treatment as favourable as possible" in all articles of the Convention and of the Protocol in which the expression is used should be interpreted as not including rights which, under law or treaty, the Republic of Guatemala has accorded or is according to nationals of the Central American countries or of other countries with which it has concluded or is entering into agreements of a regional nature.

#### **Holy See**

The Holy See, in conformity with the terms of article 42, paragraph 1, of the Convention, makes the reservation that the application of the Convention must be compatible in practice with the special nature of the Vatican City State and without prejudice to the norms governing access to and sojourn therein.

#### **Honduras**

Reservations:

(a) With respect to article 7:

The Government of the Republic of Honduras understands this article to mean that it shall accord to refugees such facilities and treatment as it shall deem appropriate at its discretion, taking into account the economic, social, democratic and security needs of the country;

(b) With respect to article 17:

This article shall in no way be understood as limiting the application of the labour and civil service laws of the country, especially is so far as they refer to the requirements, quotas and conditions of work which an alien must fulfil in his employment;

(c) With respect to article 24:

The Government of Honduras shall apply this article to the extent that it does not violate constitutional provisions governing labour, administrative or social security legislation in force in the country;

(d) With respect to articles 26 and 31:

The Government of Honduras reserves the right to designate, change or limit the place of residence of certain refugees or groups of refugees and to restrict their freedom of movement when national or international considerations so warrant;

(e) With respect to article 34:



The Government of the Republic of Honduras shall not be obligated to guarantee refugees more favourable naturalization facilities than those ordinarily granted to aliens in accordance with the laws of the country.

**Iran (Islamic Republic of)**

Subject to the following reservations:

1. In all cases where, under the provisions of this Convention, refugees enjoy the most favourable treatment accorded to nationals of a foreign State, the Government of Iran reserves the right not to accord refugees the most favourable treatment accorded to nationals of States with which Iran has concluded regional establishment, customs, economic or political agreements.

2. The Government of Iran considers the stipulations contained in articles 17, 23, 24 and 26 as being recommendations only.

**Ireland<sup>23</sup>**

"[S]ubject to the following declarations and reservations:

...

2. The Government of Ireland understands the words 'public order' in article 32 (1) and the words 'in accordance with due process of law' in article 32 (2) to mean, respectively, 'public policy' and 'in accordance with a procedure provided by law'.

3. With regard to article 17 the Government of Ireland do not undertake to grant to refugees rights of wage-earning employment more favourable than those granted to aliens generally.

4. The Government of Ireland undertake to give effect to article 25 only insofar as may be practicable and permissible under the laws of Ireland.

5. With regard to article 29 (1) the Government of Ireland do not undertake to accord to refugees treatment more favourable than that accorded to aliens generally with respect to

...

(c) Income Tax (including Surtax)."

**Israel**

"[S]ubject to the following statements and reservations:

...

2. Articles 8 and 12 shall not apply to Israel.

3. Article 28 shall apply to Israel with the limitations which result from Section 6 of the Passport Law of 5712-1952, according to which the Minister may, at his discretion:

(a) Refuse to grant, or to extend the validity of a passport or laissez-passer;

(b) Attach conditions to the grant or the extension of the validity of a passport or laissez-passer;

(c) Cancel, or shorten the period of validity of a passport or laissez-passer issued, and order the surrender thereof;

(d) Limit, either at or after the issue of a passport or laissez-passer, the range of countries for which it is to be valid.

4. Permits provided for by Article 30 shall be issued by the Minister of Finance at his discretion."

#### **Italy<sup>24</sup>**

##### **Jamaica**

"The Government of Jamaica confirms and maintains the following reservations, which were made when the Convention was extended to Jamaica by the United Kingdom of Great Britain and Northern Ireland:

(i) The Government of the United Kingdom understand articles 8 and 9 as not preventing the taking by the above-mentioned territory, in time of war or other grave and exceptional circumstances, of measures in the interests of national security in the case of a refugee on the ground of his nationality. The provisions of article 8 shall not prevent the Government of the United Kingdom from exercising any rights over property or interests which they may acquire or have acquired as an Allied or Associated Power under a Treaty of Peace or other agreement or arrangement for the restoration of peace which has been or may be completed as a result of the Second World War. Furthermore, the provisions of article 8 shall not affect the treatment to be accorded to any property or interests which, at the date of entry into force of the Convention for the above-mentioned territory, are under the control of the Government of the United Kingdom by reason of a state of war which exists or existed between them and any other State.

(ii) The Government of the United Kingdom accept paragraph 2 of article 17 in its application to the above-mentioned territory with the substitution of 'four years' for 'three years' in subparagraph (a) and with the omission of subparagraph (c).

(iii) The Government of the United Kingdom can only undertake that the provisions of subparagraph (b) of paragraph 1 of article 24 and of paragraph 2 of that article will be applied to the above-mentioned territory so far as the law allows.

(iv) The Government of the United Kingdom cannot undertake that effect will be given in the above-mentioned territory to paragraphs 1 and 2 of article 25 and can only undertake that the provisions of paragraph 3 will be applied in the above-mentioned territory so far as the law allows."

##### **Latvia**

###### **"Reservation**

In accordance with paragraph 1 of article 42 of the [said Convention], the Republic of Latvia declares that it does not consider itself bound by the article 8 and the article 34 of the Convention.

###### **Reservation**

In accordance with paragraph 1 of the article 42 of the [said Convention], the Republic of Latvia, in respect of the article 26 of the Convention, reserves the right to designate the place or places of residence of the refugees whenever considerations of national security or public order so require.

#### Reservation

In accordance with paragraph 1 of the article 42 of the [said Convention], the Republic of Latvia declares that the provisions of paragraphs 1 and 2 of the article 17 and article 24 of the Convention it considers as recommendations and not legal obligations.

#### Reservation

In accordance with paragraph 1 of the article 42 of the [said Convention], the Republic of Latvia declares that in all cases where the Convention grants to refugees the most favourable treatment accorded to nationals of a foreign country, this provision shall not be interpreted by the Government of the Republic of Latvia as necessarily involving the regime accorded to nationals of countries with which the Republic of Latvia had concluded regional customs, economic, political or social security agreements."

#### **Liechtenstein**

Subject to the following reservations:

*Ad article 17:* With respect to the right to engage in wage-earning employment, refugees are treated in law on the same footing as aliens in general, on the understanding, however, that the competent authorities shall make every effort insofar as possible, to apply to them the provisions of this article.

*Ad article 24, paragraphs 1 (a) and (b), and paragraph 3:* Provisions relating to aliens in general on training, apprenticeship, unemployment insurance, old-age and survivors insurance shall be applicable to refugees. Nevertheless, in the case of old-age and survivors insurance, refugees residing in Liechtenstein (including their survivors if the latter are considered as refugees) are already entitled to normal old-age or survivors' benefits after paying their contributions for at least one full year, provided that they have resided in Liechtenstein for ten years-of which five years without interruption have immediately preceded the occurrence of the event insured against. Moreover, the one-third reduction in benefits provided in the case of aliens and stateless persons under article 74 of the Act on Old-Age and Survivors Insurance, is not applicable to refugees. Refugees residing in Liechtenstein who, on the occurrence of the event insured against, are not entitled to old-age or survivors' benefits, are paid not only their own contributions but any contributions which may have been made by the employers.

#### **Luxembourg**

Upon signature:

Subject to the following reservation: in all cases where this Convention grants to refugees the most favourable treatment accorded to nationals of a foreign country, this provision shall not be interpreted as necessarily involving the régime accorded to nationals of countries with which the Grand Duchy of Luxembourg has concluded regional, customs, economic or political agreements.

15 November 1984

Interpretative statement:

The Grand Duchy of Luxembourg considers that the reservation made by the Republic of Guatemala concerning the Convention relating to the Status of Refugees of 28 July 1951 and

the Protocol relating to the Status of Refugee of 31 January 1967 does not affect the obligations of Guatemala deriving from those instruments.

#### **Madagascar**

The provisions of article 7 (1) shall not be interpreted as requiring the same treatment as is accorded to nationals of countries with which the Malagasy Republic has concluded conventions of establishment or agreements on co-operation;

The provisions of articles 8 and 9 shall not be interpreted as forbidding the Malagasy Government to take, in time of war or other grave and exceptional circumstances, measures with regard to a refugee because of his nationality in the interests of national security.

The provisions of article 17 cannot be interpreted as preventing the application of the laws and regulations establishing the proportion of alien workers that employers are authorized to employ in Madagascar or affecting the obligations of such employers in connexion with the employment of alien workers.

#### **Malawi**

"In respect of articles 7, 13, 15, 19, 22 and 24

The Government of the Republic of Malawi considers these provisions as recommendations only and not legally binding obligations.

In respect of article 17

The Government of the Republic of Malawi does not consider itself bound to grant a refugee who fulfils any of the conditions set forth in subparagraphs (a) to (c) to paragraph (2) of article 17 automatic exemption for the obligation to obtain a work permit.

In respect of article 17 as a whole, the Government of the Republic of Malawi does not undertake to grant to refugees rights of wage earning employment more favourable than those granted to aliens generally.

In respect of article 26

The Government of the Republic of Malawi reserves its right to designate the place or places of residence of the refugees and to restrict their movements whenever considerations of national security or public order so require.

In respect of article 34

The Government of the Republic of Malawi is not bound to grant to refugees any more favourable naturalization facilities than are granted, in accordance with the relevant laws and regulations, to aliens generally."

#### **Malta<sup>25</sup>**

#### **Mexico**

Interpretative declarations:

It will always be the task of the Government of Mexico to determine and grant, in accordance with its legal provisions in force, refugee status, without prejudice to the definition of a refugee provided for under article 1 of the Convention and article 1 of its Protocol.

The Government of Mexico has the power to grant refugees greater facilities for naturalization and assimilation than those accorded to aliens in general, within the framework of its population policy and, particularly, with regard to refugees, in accordance with its national legislation.

**Reservations:**

The Government of Mexico is convinced of the importance of ensuring that all refugees can obtain wage-earning employment as a means of subsistence and affirms that refugees will be treated, in accordance with the law, under the same conditions as aliens in general, including the laws and regulations which establish the proportion of alien workers that employers are authorized to employ in Mexico, and this will not affect the obligations of employers with regard to the employment of alien workers.

On the other hand, since the Government of Mexico is unable to guarantee refugees who meet any of the requirements referred to in article 17, paragraph 2 (a), (b) and (c), of the Convention, the automatic extension of the obligations for obtaining a work permit, it lodges an express reservation to these provisions.

The Government of Mexico reserves the right to assign, in accordance with its national legislation, the place or places of residence of refugees and to establish the conditions for moving within the national territory, for which reason it lodges an express reservation to articles 26 and 31 (2) of the Convention.

The Government of Mexico lodges an express reservation to article 32 of the Convention and, therefore refers to the application of article 33 of the Political Constitution of the United Mexican States, without prejudice to observance of the principle of non-refoulement set forth in article 33 of the Convention.

**Monaco**

Subject to the reservation that the stipulations contained in articles 7 (paragraph 2), 15, 22 (paragraph 1), 23 and 24 shall be provisionally considered as being recommendations and not legal obligations.

**Mozambique**

**Reservations:**

In respect of articles 13 and 22:

The Government of Mozambique will take these provisions as simple recommendations not binding it to accord to refugees the same treatment as is accorded to Mozambicans with respect to elementary education and property.

In respect of articles 17 and 19:

The Government of Mozambique will interpret [these provisions] to the effect that it is not required to grant privileges from obligation to obtain a work permit.

As regards article 15:

The Government of Mozambique will not be bound to accord to refugees or groups of refugees resident in its territory more extensive rights than those enjoyed by nationals with respect to the right of association and it reserves the right to restrict them in the interest of national security.

As regards article 26:

The Government of Mozambique reserves its right to designate place or places for principal residence for refugees or to restrict their freedom of movement whenever considerations of national security make it advisable.

As regards article 34:

The Government of Mozambique does not consider itself bound to grant to refugees facilities greater than those granted to other categories of aliens in general, with respect to naturalization laws."

#### **Namibia**

"[S]ubject to the following reservation in respect of article 26:

The Government of the Republic of Namibia reserves the right to designate a place or places for principal reception and residence for refugees or to restrict their freedom of movement if consideration of national security so required or make it advisable."

#### **Netherlands**

Reservation made upon signature and confirmed upon ratification:

This signature is appended subject to the reservation that in all cases where this Convention grants to refugees the most favourable treatment accorded to nationals of a foreign country this provision shall not be interpreted as involving the régime accorded to nationals of countries with which the Netherlands has concluded regional, customs, economic or political agreements.

Declarations:

(1) With reference to article 26 of this Convention, the Netherlands Government reserves the right to designate a place of principal residence for certain refugees or groups of refugees in the public interest.

(2) In the notifications concerning overseas territories referred to in article 40, paragraph 2, of this Convention, the Netherlands Government reserves the right to make a declaration in accordance with section B of article 1 with respect to such territories and to make reservations in accordance with article 42 of the Convention.

Interpretative declaration:

In depositing the instrument of ratification by the Netherlands, . . . I declare on behalf of the Netherlands Government that it does not regard the Amboinese who were transported to the Netherlands after 27 December 1949, the date of the transfer of sovereignty by the Kingdom of the Netherlands to the Republic of the United States of Indonesia, as eligible for the status of refugees as defined in article 1 of the said Convention.

#### **New Zealand**

"The Government of New Zealand can only undertake to give effect to the provisions contained in paragraph 2 of article 24 of the Convention so far as the law of New Zealand allows."

#### **Norway<sup>26</sup>**

"The obligation stipulated in article 17 (1) to accord to refugees lawfully staying in the country the most favourable treatment accorded to nationals of a foreign country in the same circumstances as regards the right to engage in wage-earning employment, shall not be construed as extending to refugees the benefits of agreements which may in the future be concluded between Norway, Denmark, Finland, Iceland and Sweden, or between Norway and any one of these countries, for the purpose of establishing special conditions for the transfer of labour between these countries."

#### **Papua New Guinea**

"The Government of Papua New Guinea in accordance with article 42 paragraph 1 of the Convention makes a reservation with respect to the provisions contained in articles 17 (1), 21, 22 (1), 26, 31, 32 and 34 of the Convention and does not accept the obligations stipulated in these articles."

#### **Poland**

The Republic of Poland does not consider itself bound by the provisions of article 24, paragraph 2, of the Convention.

#### **Portugal<sup>27</sup>**

13 July 1976

"In all cases in which the Convention confers upon the refugees the most favoured person status granted to nationals of a foreign country, this clause will not be interpreted in such a way as to mean the status granted by Portugal to the nationals of Brazil."

#### **Republic of Korea**

"The Republic of Korea declares pursuant to article 42 of the Convention that it is not bound by article 7 which provides for the exemption of refugees from legislative reciprocity after fulfilling the condition of three years' residence in the territory of the Contracting States."

#### **Republic of Moldova**

Declarations and reservations:

" ... with the following declarations and reservations:

1. According to paragraph 1, article 40 of the Convention, the Republic of Moldova declares that, until the full restoration of the territorial integrity of the Republic of Moldova, the provisions of this Convention are applicable only in the territory where the jurisdiction of the Republic of Moldova is exercised.
2. The Republic of Moldova shall apply the provisions of this convention with no discrimination generally not only as to race, religion or country of origin as stipulated in Article 3 of the Convention.
3. For the purposes of this Convention by the notion "residence" shall be understood the permanent and lawful domicile.
4. According to paragraph 1 of Article 42 of the Convention, the Republic of Moldova reserves the right that the provisions of the Convention, according to which refugees shall be accorded treatment not less favorable than that accorded aliens generally, are not interpreted as an obligation to offer refugees a regime similar to that accorded to the citizens of the states



with which the Republic of Moldova has signed regional customs, economic, political and social security treaties.

5. According to paragraph 1 of Article 42 of the Convention, the Republic of Moldova reserves the right to consider the provisions of Article 13 as recommendations and not as obligations.

6. According to paragraph 1 of Article 42 of the Convention, the Republic of Moldova reserves the right to consider the provisions of Article 17 (2) as recommendations and not as obligations.

7. According to paragraph 1 of Article 42 of the Convention, the Republic of Moldova interprets the provisions of Article 21 of the Convention as not obliged to accord housing to refugees.

8. The Government of the Republic of Moldova reserves the right to apply the provisions of Article 24 so that they do not infringe upon the constitutional and domestic legislation provisions regarding the right to labor and social protection.

9. According to paragraph 1 of Article 42 of the Convention, in implementing Article 26 of this Convention, the Republic of Moldova reserves the right to establish the place of residence for certain refugees or groups of refugees in the interest of the state and society.

10. The Republic of Moldova shall apply the provisions of Article 31 of the Convention as of the date of the entry into force of the Law on Refugee Status.

#### **Rwanda**

Reservation to article 26:

For reasons of public policy (*ordre public*), the Rwandese Republic reserves the right to determine the place of residence of refugees and to establish limits to their freedom of movement.

#### **Sierra Leone**

"The Government of Sierra Leone wishes to state with regard to article 17 (2) that Sierra Leone does not consider itself bound to grant to refugees the rights stipulated therein.

Further, with regard to article 17 as a whole, the Government of Sierra Leone wishes to state that it considers the article to be a recommendation only and not a binding obligation.

The Government of Sierra Leone wishes to state that it does not consider itself bound by the provisions of article 29, and it reserves the right to impose special taxes on aliens as provided for in the Constitution."

#### **Somalia**

"[Subject to] the following declaration:

The Government of the Somali Democratic Republic acceded to the Convention and Protocol on the understanding that nothing in the said Convention or Protocol will be construed to prejudice or adversely affect the national status, or political aspiration of displaced people from Somali Territories under alien domination.

It is in this spirit, that the Somali Democratic Republic will commit itself to respect the terms and provisions of the said Convention and Protocol."



#### **Spain**

(a) The expression "the most favourable treatment" shall, in all the articles in which it is used, be interpreted as not including rights which, by law or by treaty, are granted to nationals of Portugal, Andorra, the Philippines or the Latin American countries or to nationals of countries with which international agreements of a regional nature are concluded.

(b) The Government of Spain considers that article 8 is not a binding rule but a recommendation.

(c) The Government of Spain reserves its position on the application of article 12, paragraph 1. Article 12, paragraph 2, shall be interpreted as referring exclusively to rights acquired by a refugee before he obtained, in any country, the status of refugee.

(d) Article 26 of the Convention shall be interpreted as not precluding the adoption of special measures concerning the place of residence of particular refugees, in accordance with Spanish law.

#### **Sudan**

With reservation as to article 26.

#### **Sweden<sup>28</sup>**

With the following reservations:

*First*, a general reservation to the effect that the application of those provisions of the Convention which grant to refugees the most favourable treatment accorded to nationals of a foreign country shall not be affected by the fact that special rights and privileges are now or may in future be accorded by Sweden to the nationals of Denmark, Finland, Iceland and Norway or to the nationals of any one of those countries; and, *secondly*, the following reservations: a reservation to article 8 to the effect that that article shall not be binding on Sweden; a reservation to article 12, paragraph 1, to the effect that the Convention shall not modify the rule of Swedish private international law, as now in force, under which the personal status of a refugee is governed by the law of his country of nationality . . . ; a reservation to article 17, paragraph 2, to the effect that Sweden does not consider itself bound to grant a refugee who fulfils any one of the conditions set out in subparagraphs (a)-(c) an automatic exemption from the obligation to obtain a work permit; a reservation to article 24, paragraph 1 (b), to the effect that notwithstanding the principle of national treatment for refugees, Sweden shall not be bound to accord to refugees the same treatment as is accorded to nationals in respect of the possibility of entitlement to a national pension under the provisions of the National Insurance Act; and likewise to the effect that, in so far as the right to a supplementary pension under the said Act and the computation of such pension in certain respects are concerned, the rules applicable to Swedish nationals shall be more favourable than those applied to other insured persons; a reservation to article 24, paragraph 3, to the effect that the provisions of this paragraph shall not be binding on Sweden; and a reservation to article 25, to the effect that Sweden does not consider itself bound to cause a certificate to be delivered by a Swedish authority, in the place of the authorities of a foreign country, if the documentary records necessary for the delivery of such a certificate do not exist in Sweden.

#### **Switzerland<sup>29</sup>**

#### **Timor-Leste**

Declaration:

"In conformity with Article 42 of the Convention, the Democratic Republic of Timor-Leste accedes to the Convention with reservations in respect of Articles 16 (2), 20, 21, 22, 23 and 24."

#### **Turkey**

Upon signature:

The Turkish Government considers moreover, that the term "events occurring before 1 January 1951" refers to the beginning of the events. Consequently, since the pressure exerted upon the Turkish minority in Bulgaria, which began before 1 January 1951, is still continuing, the provision of this Convention must also apply to the Bulgarian refugees of Turkish extraction compelled to leave that country as a result of this pressure and who, being unable to enter Turkey, might seek refuge on the territory of another contracting party after 1 January 1951.

The Turkish Government will, at the time of ratification, enter reservations which it could make under article 42 of the Convention.

Reservation and declaration made upon ratification:

No provision of this Convention may be interpreted as granting to refugees greater rights than those accorded to Turkish citizens in Turkey;

The Government of the Republic of Turkey is not a party to the Arrangements of 12 May 1926 and of 30 June 1928 mentioned in article 1, paragraph A, of this Convention. Furthermore, the 150 persons affected by the Arrangement of 30 June 1928 having been amnestied under Act No.3527, the provisions laid down in this Arrangement are no longer valid in the case of Turkey. Consequently, the Government of the Republic of Turkey considers the Convention of 28 July 1951 independently of the aforementioned Arrangements  
...

The Government of the Republic understands that the action of "re-availment" or "reacquisition" as referred to in article 1, paragraph C, of the Convention-that is to say: "If (1) He has voluntarily re-availed himself of the protection of the country of his nationality; or (2) Having lost his nationality, he has voluntarily reacquired it"-does not depend only on the request of the person concerned but also on the consent of the State in question.

#### **Uganda**

"(1) *In respect of article 7:* The Government of the Republic of Uganda understands this provision as not conferring any legal, political or other enforceable right upon refugees who, at any given time, may be in Uganda. On the basis of this understanding the Government of the Republic of Uganda shall accord refugees such facilities and treatment as the Government of the Republic of Uganda shall in her absolute discretion, deem fit having regard to her own security, economic and social needs.

(2) *In respect of articles 8 and 9:* The Government of the Republic of Uganda declares that the provisions of articles 8 and 9 are recognized by it as recommendations only.

(3) *In respect of article 13:* The Government of the Republic of Uganda reserves to itself the right to abridge this provision without recourse to courts of law or arbitral tribunals, national or international, if the Government of the Republic of Uganda deems such abridgement to be in the public interest.

(4) *In respect of article 15:* The Government of the Republic of Uganda shall in the public interest have the full freedom to withhold any or all rights conferred by this article from any refugees as a class of residents within her territory.

(5) *In respect of article 16:* The Government of the Republic of Uganda understands article 16 paragraphs 2 and 3 thereof as not requiring the Government of the Republic of Uganda to accord to a refugee in need of legal assistance, treatment more favourable than that extended to aliens generally in similar circumstances.

(6) *In respect of article 17:* The obligation specified in article 17 to accord to refugees lawfully staying in the country in the same circumstances shall not be construed as extending to refugees the benefit of preferential treatment granted to nationals of the states who enjoy special privileges on account of existing or future treaties between Uganda and those countries, particularly states of the East African Community and the Organization of African Unity, in accordance with the provisions which govern such charters in this respect.

(7) *In respect of article 25:* The Government of the Republic of Uganda understands that this article shall not require the Government of the Republic of Uganda to incur expenses on behalf of the refugees in connection with the granting of such assistance except in so far as such assistance is requested by and the resulting expense is reimbursed to the Government of the Republic of Uganda by the United Nations High Commissioner for Refugees or any other agency of the United Nations which may succeed it.

(8) *In respect of article 32:* Without recourse to legal process the Government of the Republic of Uganda shall, in the public interest, have the unfettered right to expel any refugee in her territory and may at any time apply such internal measures as the Government may deem necessary in the circumstances; so however that, any action taken by the Government of the Republic of Uganda in this regard shall not operate to the prejudice of the provisions of article 33 of this Convention."

#### **United Kingdom of Great Britain and Northern Ireland**

"(i) The Government of the United Kingdom of Great Britain and Northern Ireland understand articles 8 and 9 as not preventing them from taking in time of war or other grave and exceptional circumstances measures in the interests of national security in the case of a refugee on the ground of his nationality. The provisions of article 8 shall not prevent the Government of the United Kingdom of Great Britain and Northern Ireland from exercising any rights over property or interests which they may acquire or have acquired as an Allied or Associated power under a Treaty of Peace or other agreement or arrangement for the restoration of peace which has been or may be completed as a result of the Second World War. Furthermore, the provisions of article 8 shall not affect the treatment to be accorded to any property or interests which at the date of entry into force of this Convention for the United Kingdom of Great Britain and Northern Ireland are under the control of the Government of the United Kingdom of Great Britain and Northern Ireland by reason of a state of war which exists or existed between them and any other State.

(ii) The Government of the United Kingdom of Great Britain and Northern Ireland accept paragraph 2 of article 17 with the substitution of "four years" for "three years" in sub-paragraph (a) and with the omission of sub-paragraph (c).

(iii) The Government of the United Kingdom of Great Britain and Northern Ireland, in respect of such of the matters referred to in sub-paragraph (b) of paragraph 1 of article 24 as fall within the scope of the National Health Service, can only undertake to apply the

provisions of that paragraph so far as the law allows; and it can only undertake to apply the provisions of paragraph 2 of that Article so far as the law allows.

(iv) The Government of the United Kingdom of Great Britain and Northern Ireland cannot undertake to give effect to the obligations contained in paragraphs 1 and 2 of article 25 and can only undertake to apply the provisions of paragraph 3 so far as the law allows.

#### Commentary

In connexion with sub-paragraph (b) of paragraph 1 of article 24 relating to certain matters within the scope of the National Health Service, the National Health Service (Amendment) Act, 1949, contains powers for charges to be made to persons not ordinarily resident in Great Britain (which category would include refugees) who receive treatment under the Service. While these powers have not yet been exercised it is possible that this might have to be done at some future date. In Northern Ireland the health services are restricted to persons ordinarily resident in the country except where regulations are made to extend the Service to others. It is for these reasons that the Government of the United Kingdom while they are prepared in the future, as in the past, to give the most sympathetic consideration to the situation of refugees, find it necessary to make a reservation to sub-paragraph (b) of paragraph 1 of article 24 of the Convention.

The scheme of Industrial Injuries Insurance in Great Britain does not meet the requirements of paragraph 2 of article 24 of the Convention. Where an insured person has died as the result of an industrial accident or a disease due to the nature of his employment, benefit cannot generally be paid to his dependants who are abroad unless they are in any part of the British Commonwealth, in the Irish Republic or in a country with which the United Kingdom has made a reciprocal agreement concerning the payment of industrial injury benefits. There is an exception to this rule in favour of the dependants of certain seamen who die as a result of industrial accidents happening to them while they are in the service of British ships. In this matter refugees are treated in the same way as citizens of the United Kingdom and Colonies and by reason of paragraphs 3 and 4 of article 24 of the Convention, the dependants of refugees will be able to take advantage of reciprocal agreements which provide for the payment of United Kingdom industrial injury benefits in other countries. By reason of paragraphs (3) and (4) of article 24 refugees will enjoy under the scheme of National Insurance and Industrial Injuries Insurance certain rights which are withheld from British subjects who are not citizens of the United Kingdom and Colonies.

No arrangements exist in the United Kingdom for the administrative assistance for which provision is made in article 25 nor have any such arrangements been found necessary in the case of refugees. Any need for the documents or certifications mentioned in paragraph 2 of that article would be met by affidavits."

#### **Zambia**

"Subject to the following reservations made pursuant to article 42 (1) of the Convention:

#### Article 17 (2)

The Government of the Republic of Zambia wishes to state with regard to article 17, paragraph 2, that Zambia does not consider itself bound to grant to a refugee who fulfils any one of the conditions set out in sub-paragraphs (a) to (c) automatic exemption from the obligation to obtain a work permit.

Further, with regard to article 17 as a whole, Zambia does not wish to undertake to grant to refugees rights of wage-earning employment more favourable than those granted to aliens generally.

#### Article 22 (1)

The Government of the Republic of Zambia wishes to state that it considers article 22 (1) to be a recommendation only and not a binding obligation to accord to refugees the same treatment as is accorded to nationals with respect to elementary education.

#### Article 26

The Government of the Republic of Zambia wishes to state with regard to article 26 that it reserves the right to designate a place or places of residence for refugees.

#### Article 28

The Government of the Republic of Zambia wishes to state with regard to article 28 that Zambia considers itself not bound to issue a travel document with a return clause in cases where a country of second asylum has accepted or indicated its willingness to accept a refugee from Zambia."

### **Zimbabwe**

"1. The Government of the Republic of Zimbabwe declares that it is not bound by any of the reservations to the Convention relating to the Status of Refugees, the application of which had

been extended by the Government of the United Kingdom to its territory before the attainment of independence.

2. The Government of the Republic of Zimbabwe wishes to state with regard to article 17, paragraph 2, that it does not consider itself bound to grant a refugee who fulfills any of the conditions set out in subparagraphs (a) to (c) automatic exemption from the obligation to obtain a work permit. In addition, with regard to article 17 as a whole, the Republic of Zimbabwe does not undertake to grant to refugees rights of wage-earning employment more favourable than those granted to aliens generally.

3. The Government of the Republic of Zimbabwe wishes to state that it considers article 22 (1) as being a recommendation only and not an obligation to accord to refugees the same treatment as it accords to nationals with respect to elementary education.

4. The Government of the Republic of Zimbabwe considers articles 23 and 24 as being recommendations only.

5. The Government of the Republic of Zimbabwe wishes to state with regard to article 26 that it reserves the right to designate a place or places of residence for refugees."

*Objections*  
(Unless otherwise indicated, the objections were made  
upon ratification, accession or succession.)

**Belgium**

5 November 1984

[Regarding the reservation made by Guatemala upon accession] [the Belgian Government] considers that it is impossible for the other States parties to determine the scope of a reservation which is expressed in such broad terms and which refers for the most part to domestic law, and that the reservation is thus not acceptable. It therefore voices an objection to the said reservation.

**Ethiopia**

10 January 1979

"The Provisional Military Government of Socialist Ethiopia wishes to place on record its objection to the declaration [made by Somalia upon accession] and that it does not recognize it as valid on the ground that there are no Somali territories under alien domination."

**France**

23 October 1984

[Same declaration, mutatis mutandis, as the one made by Belgium.]

**Germany<sup>5</sup>**

5 December 1984

"The Federal Government views [the reservation made by Guatemala] as being worded in such general terms that its application could conceivably nullify the provisions of the Convention and the Protocol. Consequently, this reservation cannot be accepted."

**Greece<sup>22</sup>**

**Italy**

26 November 1984

[The Government of Italy] considers [the reservation made by Guatemala] to be unacceptable since the very general terms in which it is couched and the fact that it refers for the most part to domestic law and leaves it to the Guatemalan Government to decide whether to apply numerous aspects of the Convention make it impossible for other States parties to determine the scope of the reservation.

**Luxembourg**

[For the interpretative statement by Luxembourg concerning the reservation by Guatemala, see under "Declarations other than those made under section B of article 1 and Reservations" in this chapter.]

**Netherlands**

11 December 1984

Regarding the reservation made by Guatemala upon accession:

"The Government of the Kingdom of the Netherlands is of the opinion that a reservation phrased in such general terms and referring to the domestic law only is undesirable, since its scope is not entirely clear."

*Territorial Application*

Participant:	Date of receipt of the notification:	Territories:
Australia	22 Jan 1954	Norfolk Island, Papua New Guinea and Nauru
Denmark	4 Dec 1952	Greenland
France	23 Jun 1954	All territories for the international relations of which France is responsible
Netherlands <sup>7</sup>	29 Jul 1971	Surinam
United Kingdom <sup>8,18,21,30,31,32,33,34,35,36</sup>	11 Mar 1954	The Channel Islands and the Isle of Man
	25 Oct 1956	The following territories with reservations: British Solomon Islands Protectorate, Cyprus, Dominica, Falkland Islands, Fiji, Gambia, Gilbert and Ellice Islands, Grenada, Jamaica, Kenya, Mauritius, St. Vincent, Seychelles, Somaliland Protectorate, Zanzibar and St. Helena
	19 Jun 1957	British Honduras
	11 Jul 1960	Federation of Rhodesia and Nyasaland
	11 Nov 1960	Basutoland, Bechuanaland Protectorate and Swaziland
	4 Sep 1968	St. Lucia, Montserrat
	20 Apr 1970	The Bahama Islands

*Declarations and reservations made upon notifications of territorial application*

**Denmark**

**Greenland**

Subject to the reservations made on ratification by the Government of Denmark.

**Netherlands<sup>7</sup>**

**Surinam**

The extension is subject to the following reservations, which had been made in substance by the Government of the Netherlands upon ratification:

"1. that in all cases where the Convention, in conjunction with the Protocol, grants to refugees the most favourable treatment accorded to nationals of a foreign country, this



provision shall not be interpreted as involving the régime accorded to nationals of countries with which the Kingdom of the Netherlands has concluded regional, customs, economic or political agreements which apply to Surinam;

"2. that the Government of Surinam as regards article 26 of the Convention, in conjunction with article 1, paragraph 1, of the Protocol, reserves the right for reasons of public order to appoint for certain refugees or groups of refugees a principal place of residence."

**United Kingdom of Great Britain and Northern Ireland**  
[18,21,31,32,33,34,35,36](#)

**The Channel Islands and the Isle of Man**

"(i) The Government of the United Kingdom of Great Britain and Northern Ireland understand articles 8 and 9 as not preventing the taking in the Isle of Man and in the Channel Islands, in time of war or other grave and exceptional circumstances, of measures in the interests of national security in the case of a refugee on the ground of his nationality. The provisions of article 8 shall not prevent the Government of the United Kingdom of Great Britain and Northern Ireland from exercising any rights over property or interests which they may acquire or have acquired as an Allied or Associated Power under a Treaty of Peace or other agreement or arrangement for the restoration of peace which has been or may be completed as a result of the Second World War. Furthermore, the provisions of article 8 shall not affect the treatment to be accorded to any property or interests which at the date of the entry into force of this Convention for the Isle of Man and the Channel Islands are under the control of the Government of the United Kingdom of Great Britain and Northern Ireland by reason of a state of war which exists or existed between them and any other state.

"(ii) The Government of the United Kingdom of Great Britain and Northern Ireland accept paragraph 2 of article 17 in its application to the Isle of Man and the Channel Islands with the substitution of "four years" for "three years" in sub-paragraph (a) and with the omission of subparagraph (c).

"(iii) The Government of the United Kingdom of Great Britain and Northern Ireland can only undertake that the provisions of sub-paragraph (b) of paragraph 1 of article 24 and of paragraph 2 of that article will be applied in the Channel Islands so far as the law allows, and that the provisions of that sub-paragraph, in respect of such matters referred to therein as fall within the scope of the Isle of Man Health Service, and of paragraph 2 of that article will be applied in the Isle of Man so far as the law allows.

"(iv) The Government of the United Kingdom of Great Britain and Northern Ireland cannot undertake that effect will be given in the Isle of Man and the Channel Islands to paragraphs 1 and 2 of article 25 and can only undertake that the provisions of paragraph 3 will be applied in the Isle of Man and the Channel Islands so far as the law allows.

"The considerations upon which certain of these reservations are based are similar to those set out in the memorandum relating to the corresponding reservations made in respect of the United Kingdom, which was enclosed in my note under reference."

**British Solomon Islands Protectorate, Cyprus, Dominica, Falkland Islands, Fiji, Gambia, Gilbert and Ellice Islands, Grenada, Jamaica, Kenya, Mauritius, St. Vincent, Seychelles and Somaliland Protectorate**

[Same reservations, in essence, as those made for the Channel Islands and the Isle of Man.]



**Zanzibar and St. Helena**

[Same reservations, in essence, as those made for the Channel Islands and the Isle of Man under Nos. (i), (iii) and (iv).]

**British Honduras**

[Same reservations, in essence, as those made for the Channel Islands and the Isle of Man under No. (i).]

**Federation of Rhodesia and Nyasaland**

[Same reservations, in essence, as those made for the Channel Islands and the Isle of Man.]

**Basutoland, Bechuanaland Protectorate and Swaziland**

[Same reservations, in essence, as those made for the Channel Islands and the Isle of Man under Nos. (i), (iii) and (iv).]

**The Bahama Islands**

"Subject to the following reservation in respect of paragraphs 2 and 3 of article 17 of the Convention:

"Refugees and their dependants would normally be subject to the same laws and regulations relating generally to the employment of non-Bahamians within the Commonwealth of the Bahama Islands, so long as they have not acquired Bahamian status."

**NOTES**

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1. *Official Records of the General Assembly, Fifth Session, Supplement No. 20 (A/1775), p.48.*

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2. *The former Yugoslavia had signed and ratified the Convention on 28 July 1951 and 15 December 1959, respectively declaring that it considered itself bound by alternative (b) of Section B(1) of the Convention.. See also note 1 under "Bosnia and Herzegovina", "Croatia", "former Yugoslavia", "Slovenia", "The Former Yugoslav Republic of Macedonia" and "Yugoslavia" in the "Historical Information" section in the front matter of this volume.*

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3. *On 27 April 1999, the Government of Portugal informed the Secretary-General that the Convention would apply to Macau. Subsequently, on 18 November and 3 December 1999, the Secretary-General received communications concerning the status of Macao from the Governments of China and Portugal (see also note 3 under "China" and note 1 under "Portugal" regarding Macao in the "Historical Information" section in the front matter of this volume). Upon resuming the exercise of sovereignty over Macao, China notified the Secretary-General that the Convention with the reservation made by China will also apply to the Macao Special Administrative Region.*

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4. *Czechoslovakia had acceded to the Convention on 26 November 1991 declaring that it considered itself bound by alternative (b) of Section B (1) of the Convention. See also note 1 under "Czech Republic" and note 1 under "Slovakia" in the "Historical Information" section in the front matter of this volume.*

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5. The German Democratic Republic had acceded to the Convention on 4 September 1990 choosing alternative (b) of Section B (1) of the Convention. See also note 2 under "Germany" in the "Historical Information" section in the front matter of this volume.

6. See note 1 under "Germany" regarding Berlin (West) in the "Historical Information" section in the front matter of this volume.

7. Upon notifying its succession (29 November 1978) the Government of Suriname informed the Secretary-General that the Republic of Suriname did not succeed to the reservations formulated on 29 July 1951 by the Netherlands when the Convention and Protocol relating to the Status of Refugees were extended to Suriname.

8. In a declaration contained in the notification of succession to the Convention, the Government of Tuvalu confirmed that it regards the Convention [...] as continuing in force subject to reservations previously made by the Government of the United Kingdom of Great Britain and Northern Ireland in relation to the Colony of the Gilbert and Ellice Islands.

9. The instrument of accession was accompanied by the following communication:

"Having transmitted to the Secretary-General the Instrument of Accession of Ukraine simultaneously to the 1951 Convention and 1967 Protocol relating to the status of refugees, and in view of the fact that the Protocol provides in article 1 (2) that 'the term 'refugee' shall...mean any person within the definition of article 1 of the Convention as if the words 'As result of events occurring before 1 January 1951 and...' and the words '...as a result of such events' in article 1 A (2) were omitted' and thus modifies in effect the provisions of article 1 of the Convention, it is the position of the Government of Ukraine that no separate declaration under article 1 B (1) of the Convention is required in the circumstances."

10. The formality was effected by the Yemen Arab Republic. See also note 1 under "Yemen" in the "Historical Information" section in the front matter of this volume.

11. States having previously specified alternative (a) under section B(1) of article 1. For the date of receipt of the modification of choice to alternative (b), see note 12.

12. Notifications of the extension of their obligations under the Convention by adopting alternative (b) of section B (1) of article 1 of the Convention were received by the Secretary-General on the dates indicated:

<b>Participant:</b>	<b>Date of notification:</b>
Argentina	15 Nov 1984
Australia	1 Dec 1967
Benin	6 Jul 1970
Brazil	14 Feb 1990
Cameroon	29 Dec 1961

Central African Republic	15 Oct 1962
Chile	28 Jan 1972
Colombia	10 Oct 1961
Côte d'Ivoire	20 Dec 1966
Ecuador	1 Feb 1972
France	3 Feb 1971
Holy See	17 Nov 1961
Hungary	8 Jan 1998
Iran (Islamic Republic of)	27 Sep 1976
Italy	1 Mar 1990
Latvia	3 Nov 1997
Luxembourg	22 Aug 1972
Malta	17 Jan 2002
Niger	7 Dec 1964
Paraguay	10 Jan 1991
Peru	8 Dec 1980
Portugal	13 Jul 1976
Senegal	12 Oct 1964
Sudan	7 Mar 1974
Togo	23 Oct 1962

**13.** On 21 January 1983, the Secretary-General received from the Government of Botswana the following communication:

*"Having simultaneously acceded to the Convention and Protocol [relating to the status of refugees done at New York on 31 January 1967] on the 6th January 1969 and in view of the fact that the Protocol provides in article 1 (2) that the term 'refugee' shall ...mean any person within the definition of article 1 of the Convention' as if the words 'As a result of events occurring before 1 January 1951 and' ... and the words '... as a result of such events', in article [I(A)(2)] were omitted and thus modifies in effect the provisions of article 1 of the Convention, it is the position of the Government of Botswana that no separate declaration under article 1.B(1) of the Convention is required in the circumstances."*

*On the basis of the afore-mentioned communication, the Secretary-General has included Botswana in the list of States having chosen formula (b) under section B of article 1.*

*Subsequently, in a communication, received by the Secretary-General on 29 April 1986, and with reference to article 1 B (1) of the above-mentioned Convention, the Government of Botswana confirmed that it has no objection to be listed among the States applying the Convention without any geographical limitation.*

**14.** The instrument of accession contains the following declaration:

*"... The mandatory declaration specifying which of the two meanings in Article 1 (B) (1) a Contracting State applies for the purpose of its obligations under the Convention has been superseded by the provisions of Article 1 of the Protocol Relating to the Status of Refugees of*

31 January 1967. Furthermore, the previous date-line would render Malawi's accession nugatory.

"Consequently, and since [the Government of the Republic of Malawi] is simultaneously acceding to the said Protocol, the obligations hereby assumed by the Government of the Republic of Malawi are not limited by the previous dateline or bounded by the concomitant geographic limitation in the Convention."

On the basis of the above declaration, the Secretary-General has included Malawi in the list of States having chosen formula (b) under section B of article I.

Further, on 4 February 1988, the Secretary-General received the following declaration from the Government of Malawi:

"When making the declaration under Section B of article 1 of the Convention, the Government of the Republic of Malawi intended and intends to apply the Convention and the Protocol thereto liberally in the lines of article 1 of the Protocol without being bounded by the geographic limitation or the dateline specified in the Convention.

"In the view of the Government of the Republic of Malawi the formula in the Convention is static and the Government of the Republic of Malawi's position, as stated, merely seeks to assist in the progressive development of international law in this area as epitomised by the 1967 Protocol. It is therefore the view of the Government of the Republic of Malawi that the declaration is consistent with the objects and purposes of the Convention and it entails the assumption of obligation beyond but perfectly consistent with those of the Convention and the Protocol thereto."

In view of the said declaration, Malawi remains listed among those States which, in accordance with Section B of article 1 of the Convention, will apply the said Convention to events occurring in Europe or elsewhere before 1 January 1951.

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**15.** In a communication received on 1 December 1967, the Government of Australia notified the Secretary-General of the withdrawal of the reservations to articles 17, 18, 19, 26 and 32, and, in a communication received by the Secretary-General on 11 March 1971, of the withdrawal of the reservation to paragraph 1 of article 28 of the Convention. For the text of those reservations, see United Nations, Treaty Series, vol.189, p.202.

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**16.** These reservations replace those made at the time of signature. For the text of reservations made on signature, see United Nations, Treaty Series, vol.189, p.186.

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**17.** On 7 April 1972, upon its accession to the Protocol relating to the Status of Refugees done at New York on 31 January 1967, the Government of Brazil withdraws its reservations excluding articles 15 and 17, paragraphs 1 and 3, from its application to the Convention. For the text of the said reservations, see United Nations, Treaty Series, vol. 380, p.430.

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**18.** On notifying its succession to the Convention, the Government of Cyprus confirmed the reservations made at the time of the extension of the Convention to its territory by the Government of the United Kingdom of Great Britain and Northern Ireland. For the text of

these reservations, see "Declarations and reservations made upon notification of territorial application" under United Kingdom.

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**19.** In a communication received on 23 August 1962, the Government of Denmark informed the Secretary-General of its decision to withdraw as from 1 October 1961 the reservation to article 14 of the Convention.

In a communication received on 25 March 1968, the Government of Denmark informed the Secretary-General of its decision to withdraw as from that date the reservations made on ratification to paragraphs 1, 2 and 3 of article 24 and partially the reservation made on ratification to article 17 by rewording the said reservation. For the text of the reservations originally formulated by the Government of Denmark on ratification, see United Nations, Treaty Series, vol. 189, p. 198.

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**20.** On 7 October 2004, the Government of Finland informed the Secretary-General of the following:

"WHEREAS the Instrument of Accession contained reservations, inter alia, to Article 7, paragraph 2; Article 8; Article 12, paragraph 1; Article 24, paragraph 1 (b) and paragraph 3; Article 25 and Article 28, paragraph 1 in the Convention;

NOW THEREFORE the Government of the Republic of Finland do hereby withdraw the said reservations, while the general reservation concerning nationals of Denmark, Iceland, Norway and Sweden and the reservation on Article 24, paragraph 3, will remain."

The original reservations made upon accession, read as follows:

"[S]ubject to the following reservations: (1) A general reservation to the effect that the application of those provisions of the Convention which grant to refugees the most favourable treatment accorded to nationals of a foreign country shall not be affected by the fact that special rights and privileges are now or may in future be accorded by Finland to the nationals of Denmark, Iceland, Norway and Sweden or to the nationals of any one of those Countries;

(2) A reservation to article 7, paragraph 2, to the effect that Finland is not prepared, as a general measure, to grant refugees who fulfil the conditions of three years residence in Finland an exemption from any legislative reciprocity which Finnish law may have stipulated as a condition governing an alien's eligibility for same right or privilege;

(3) A reservation to article 8 to the effect that that article shall not be binding on Finland;

(4) A reservation to article 12, paragraph 1, to the effect that the Convention shall not modify the rule of Finnish private international law, as now in force, under which the personal status of a refugee is governed by the law of his country of nationality;

(5) A reservation to article 24, paragraph 1 (b) and paragraph 3 to the effect that they shall not be binding on Finland;

(6) A reservation to article 25, to the effect that Finland does not consider itself bound to cause a certificate to be delivered by a Finnish authority, in the place of the authorities of a



foreign country, if the documentary records necessary for the delivery of such certificate do not exist in Finland;

(7) A reservation with respect to the provisions contained in paragraph 1 of article 28. Finland does not accept the obligations stipulated in the said paragraph, but is prepared to recognize travel documents issued by other Contracting States pursuant to this article."

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21. On notifying its succession to the Convention, the Government of Gambia confirmed the reservations made at the time of the extension of the Convention to its territory by the Government of the United Kingdom of Great Britain and Northern Ireland.

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22. In a communication received by the Secretary-General on 19 April 1978, the Government of Greece declared that it withdrew the reservations that it had made upon ratification pertaining to articles 8, 11, 13, 24 (3), 26, 28, 31, 32 and 34, and also the objection contained in paragraph 6 of the relevant declaration of reservations by Greece is also withdrawn.

Subsequently, in a notification received on 27 February 1995, the Government of Greece notified the Secretary-General that it had decided to withdraw its reservation to article 17 made upon ratification. For the text of the reservations and objection so withdrawn, see United Nations, Treaty Series, vol. 354, p.402.

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23. In a communication received on 23 October 1968, the Government of Ireland notified the Secretary-General of the withdrawal of two of its reservations in respect of article 29 (1), namely those indicated at (a) and (b) of paragraph 5 of declarations and reservations contained in the instrument of accession by the Government of Ireland to the Convention; for the text of the withdrawn reservations, see United Nations, Treaty Series, vol. 254, p.412.

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24. In a communication received on 20 October 1964, the Government of Italy has notified the Secretary-General that "it withdraws the reservations made at the time of signature, and confirmed at the time of ratification, to articles 6, 7, 8, 19, 22, 23, 25 and 34 of the Convention [see United Nations, Treaty Series, vol.189, p. 192]. The above-mentioned reservations are inconsistent with the internal provisions issued by the Italian Government since the ratification of the Convention. The Italian Government also adopted in December 1963 provisions which implement the contents of paragraph 2 of article 17".

Furthermore, the Italian Government confirms that "it maintains its declaration made in accordance with section B (1) of article 1, and that it recognizes the provisions of articles 17 and 18 as recommendations only". (See also note [12](#).)

Subsequently, in a communication received on 1 March 1990, the Government of Italy notified the Secretary-General that it had decided to withdraw the declaration by which the provisions of articles 17 and 18 were recognized by it as recommendations only. For the complete text of the reservations see United Nations, Treaty Series, vol. 189, p.192.

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25. The instrument of accession deposited by the Government of Malta was accompanied by the following reservation:

"Article 7, paragraph 2, articles 14, 23, 27 and 28 shall not apply to Malta, and article 7, paragraphs 3, 4 and 5, articles 8, 9, 11, 17, 18, 31, 32 and 34 shall apply to Malta compatibly with its own special problems, its peculiar position and characteristics."

On 17 January 2002, the Secretary-General received the following communication from the Government of Malta:

"The Government of Malta.....hereby withdraws the reservations relating to article 7 (2), Articles 14, 27, 28, 7 (3)(4), (5), 8, 9, 17, 18, 31 and 32; ... and confirms that: "Article 23 shall not apply to Malta, and articles 11, and 34 shall apply to Malta compatibly and with its own special problems, its peculiar position and characteristics." Further, on 24 February 2004, the Secretary-General received from the Government of Malta, the following communication:

[The Government of Malta] "declare that the Government of Malta, having reviewed the remaining reservations and declaration, hereby withdraws the reservations relating to Article 23, and the reservations in respect of Articles 11 and 34 wherein these applied to Malta compatibly with its own special problems, its peculiar positions and characteristics."

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26. In a communication received by the Secretary-General on 21 January 1954, the Government of Norway gave notice of the withdrawal, with immediate effect, of the reservation to article 24 of the Convention, "as the Acts mentioned in the said reservation have been amended to accord to refugees lawfully staying in the country the same treatment as is accorded to Norwegian nationals". For the text of that reservation, see United Nations, Treaty Series, vol.189, p.198.

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27. The text, which was communicated in a notification received on 13 July 1976, replaces the reservations originally made by Portugal upon accession. For the text of the reservations withdrawn, see United Nations, Treaty Series, vol. 383, p.314.

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28. In a communication received on 20 April 1961, the Government of Sweden gave notice of the withdrawal, as from 1 July 1961, of the reservation to article 14 of the Convention.

In a communication received on 25 November 1966, the Government of Sweden has notified the Secretary-General that it has decided, in accordance with paragraph 2 of article 42 of the Convention, to withdraw some of its reservations to article 24, paragraph 1 (b), by rewording them and to withdraw the reservation to article 24, paragraph 2.

In a communication received on 5 March 1970, the Government of Sweden notified the Secretary-General of the withdrawal of its reservation to article 7, paragraph 2, of the Convention.

For the text of the reservations as originally formulated by the Government of Sweden upon ratification, see United Nations, Treaty Series, vol. 200, p. 336.

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29. In a communication received on 18 February 1963, the Government of Switzerland gave notice to the Secretary-General of the withdrawal of the reservation made at the time of ratification to article 24, paragraph 1 (a) and (b) and paragraph 3, of the Convention, in so far as that reservation concerns old-age and survivors' insurance.

*In a communication received on 3 July 1972, the Government of Switzerland gave notice of its withdrawal of the reservation to article 17 formulated in its instrument of ratification of the Convention.*

*In a communication received on 17 December 1980, the Government of Switzerland gave notice of its withdrawal, in its entirety, of the subsisting reservation formulated in respect of article 24, number 1, letters a and b, which encompasses training, apprenticeship and unemployment insurance with effect from 1 January 1981, date of entry into force of the Swiss Law on Asylum of 5 October 1979. For the text of the reservations made initially, see United Nations, Treaty Series, vol. 202, p. 368.*

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**30.** *On 3 October 1983, the Secretary-General received from the Government of Argentina the following objection :*

*[The Government of Argentina makes a] formal objection to the declaration of territorial extension issued by the United Kingdom with regard to the Malvinas Islands (and dependencies), which that country is illegally occupying and refers to as the "Falkland Islands".*

*The Argentine Republic rejects and considers null and void the [declaration] of territorial extension.*

*With reference to the above-mentioned objection the Secretary-General received, on 28 February 1985, from the Government of the United Kingdom of Great Britain and Northern Ireland the following declaration:*

*"The Government of the United Kingdom of Great Britain and Northern Ireland have no doubt as to their right, by notification to the Depositary under the relevant provisions of the above-mentioned Convention, to extend the application of the Convention in question to the Falkland Islands or to the Falkland Islands Dependencies, as the case may be.*

*For this reason alone, the Government of the United Kingdom are unable to regard the Argentine [communication] under reference as having any legal effect."*

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**31.** *See note 1 under "United Kingdom of Great Britain and Northern Ireland" in the "Historical Information" section in the front matter of this volume.*

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**32.** *In a letter addressed to the Secretary-General on 22 March 1968, the President of the Republic of Malawi, referring to the Convention relating to the Status of Refugees, done at Geneva on 28 July 1951, stated the following:*

*"In my letter to you of the 24th November 1964, concerning the disposition of Malawi's inherited treaty obligations, my Government declared that with respect to multilateral treaties which had been applied or extended to the former Nyasaland Protectorate, any Party to such a treaty could on the basis of reciprocity rely as against Malawi on the terms of such treaty until Malawi notified its depositary of what action it wished to take by way of confirmation of termination, confirmation of succession, or accession.*

*"I am now to inform you as depositary of this Convention that the Government of Malawi wishes to terminate any connection with this Convention which it might have inherited. The*



*Government of Malawi considers that any legal relationship with the aforementioned Convention relating to the Status of Refugees, Geneva, 1951 which might have devolved upon it by way of succession from the ratification of the United Kingdom, is terminated as of this date."*

*See succession by Zambia.*

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**33.** *See succession by Botswana (formerly Bechuanaland Protectorate).*

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**34.** *See succession by Fiji.*

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**35.** *See succession by Jamaica.*

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**36.** *See succession by Kenya.*

## PROTOCOL RELATING TO THE STATUS OF REFUGEES

### THE STATES PARTIES TO THE PRESENT PROTOCOL,

**CONSIDERING** that the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 (hereinafter referred to as the Convention) covers only those persons who have become refugees as a result of events occurring before 1 January 1951,

**CONSIDERING** that new refugee situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention,

**CONSIDERING** that it is desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention irrespective of the dateline 1 January 1951,

**HAVE AGREED** as follows:

### Article I

#### GENERAL PROVISION

1. The States Parties to the present Protocol undertake to apply articles 2 to 34 inclusive of the Convention to refugees as hereinafter defined.
2. For the purpose of the present Protocol, the term “refugee” shall, except as regards the application of paragraph 3 of this article, mean any person within the definition of article 1 of the Convention as if the words “As a result of events occurring before 1 January 1951 and ...” “and the words” ... “a result of such events”, in article 1 A (2) were omitted.
3. The present Protocol shall be applied by the States Parties hereto without any geographic limitation, save that existing declarations made by States already Parties to the Convention in accordance with article



1 B (1) (a) of the Convention, shall, unless extended under article 1 B (2) thereof, apply also under the present Protocol.

#### *Article II*

#### **CO-OPERATION OF THE NATIONAL AUTHORITIES WITH THE UNITED NATIONS**

1. The States Parties to the present Protocol undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the present Protocol.
2. In order to enable the Office of the High Commissioner, or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the States Parties to the present Protocol undertake to provide them with the information and statistical data requested, in the appropriate form, concerning:
  - (a) The condition of refugees;
  - (b) The implementation of the present Protocol;
  - (c) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

#### *Article III*

#### **INFORMATION ON NATIONAL LEGISLATION**

The States Parties to the present Protocol shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of the present Protocol.

#### *Article IV*

#### **SETTLEMENT OF DISPUTES**

Any dispute between States Parties to the present Protocol which relates to its interpretation or application and which cannot be settled by other means shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.



*Article V*

**ACCESSION**

The present Protocol shall be open for accession on behalf of all States Parties to the Convention and of any other State Member of the United Nations or member of any of the specialized agencies or to which an invitation to accede may have been addressed by the General Assembly of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

*Article VI*

**FEDERAL CLAUSE**

In the case of a Federal or non-unitary State, the following provisions shall apply:

- (a) With respect to those articles of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of States Parties which are not Federal States;
- (b) With respect to those articles of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment;
- (c) A Federal State Party to the present Protocol shall, at the request of any other State Party hereto transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol, showing the extent to which effect has been given to that provision by legislative or other action.



Article VII

**RESERVATIONS AND DECLARATIONS**

1. At the time of accession, any State may make reservations in respect of article IV of the present Protocol and in respect of the application in accordance with article I of the present Protocol of any provisions of the Convention other than those contained in articles 1, 3, 4, 16 (1) and 33 thereof, provided that in the case of a State Party to the Convention reservations made under this article shall not extend to refugees in respect of whom the Convention applies.
2. Reservations made by States Parties to the Convention in accordance with article 42 thereof shall, unless withdrawn, be applicable in relation to their obligations under the present Protocol.
3. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw such reservation by a communication to that effect addressed to the Secretary-General of the United Nations.
4. Declarations made under article 40, paragraphs 1 and 2, of the Convention by a State Party thereto which accedes to the present Protocol shall be deemed to apply in respect of the present Protocol, unless upon accession a notification to the contrary is addressed by the State Party concerned to the Secretary-General of the United Nations. The provisions of article 40, paragraphs 2 and 3, and of article 44, paragraph 3, of the Convention shall be deemed to apply *mutatis mutandis* to the present Protocol.

Article VIII

**ENTRY INTO FORCE**

1. The present Protocol shall come into force on the day of deposit of the sixth instrument of accession.
2. For each State acceding to the Protocol after the deposit of the sixth instrument of accession, the Protocol shall come into force on the date of deposit by such State of its instrument of accession.





*Article IX*

**DENUNCIATION**

1. Any State Party hereto may denounce this Protocol at any time by a notification addressed to the Secretary-General of the United Nations.
2. Such denunciation shall take effect for the State Party concerned one year from the date on which it is received by the Secretary-General of the United Nations.

*Article X*

**NOTIFICATIONS**

**BY THE SECRETARY-GENERAL OF THE UNITED NATIONS**

The Secretary-General of the United Nations shall inform the States referred to in article V above of the date of entry into force, accessions, reservations and withdrawals of reservations to and denunciations of the present Protocol, and of declarations and notifications relating hereto.

*Article XI*

**DEPOSIT IN THE ARCHIVES OF THE SECRETARIAT OF THE UNITED NATIONS**

A copy of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, signed by the President of the General Assembly and by the Secretary-General of the United Nations, shall be deposited in the archives of the Secretariat of the United Nations. The Secretary-General will transmit certified copies thereof to all States Members of the United Nations and to the other States referred to in article V above.





UNHCR, United Nations High Commissioner for Refugees

## States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol

Date of entry into force:  
22 April 1954 (Convention)  
4 October 1967 (Protocol)

### *As of 1 November 2007*

Total number of States Parties to the 1951 Convention:	144
Total number of States Parties to the 1967 Protocol:	144
States Parties to both the Convention and Protocol:	141
States Parties to one or both of these instruments:	147

### *States Parties to the 1951 Convention only:*

Madagascar, Monaco, Saint Kitts and Nevis

### *States Parties to the 1967 Protocol only:*

Cape Verde, United States of America, Venezuela

The Convention was adopted by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, held at Geneva from 2 to 25 July 1951. The Conference was convened pursuant to resolution 429 (V), adopted by the General Assembly of the United Nations on 14 December 1950.

The dates indicated are the dates of deposit of the instrument of ratification or accession by the respective States Parties with the Secretary-General of the United Nations in New York. In accordance with article 43(2), the Convention enters into force on the ninetieth day after the date of deposit. The Protocol enters into force on the date of deposit (article VIII (2)). Exceptions are indicated below.

### *Most recent ratification:*

Montenegro	10 Oct 2006 d	10 Oct 2006 d
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Country	Convention	Protocol
Afghanistan	30 Aug 2005 a	30 Aug 2005 a
Albania	18 Aug 1992 a	18 Aug 1992 a
Algeria	21 Feb 1963 d	08 Nov 1967 a
Angola	23 Jun 1981 a	23 Jun 1981 a
Antigua and Barbuda	07 Sep 1995 a	07 Sep 1995 a
Argentina	15 Nov 1961 a	06 Dec 1967 a
Armenia	06 Jul 1993 a	06 Jul 1993 a
Australia	22 Jan 1954 a	13 Dec 1973 a
Austria	01 Nov 1954 r	05 Sep 1973 a
Azerbaijan	12 Feb 1993 a	12 Feb 1993 a



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Bahamas	15 Sep 1993 a	15 Sep 1993 a
Belarus	23 Aug 2001 a	23 Aug 2001 a
Belgium	22 Jul 1953 r	08 Apr 1969 a
Belize	27 Jun 1990 a	27 Jun 1990 a
Benin	04 Apr 1962 d	06 Jul 1970 a
Bolivia	09 Feb 1982 a	09 Feb 1982 a
Bosnia and Herzegovina	01 Sep 1993 d	01 Sep 1993 d
Botswana	06 Jan 1969 a	06 Jan 1969 a
Brazil	16 Nov 1960 r	07 Apr 1972 a
Bulgaria	12 May 1993 a	12 May 1993 a
Burkina Faso	18 Jun 1980 a	18 Jun 1980 a
Burundi	19 Jul 1963 a	15 Mar 1971 a
Cambodia	15 Oct 1992 a	15 Oct 1992 a
Cameroon	23 Oct 1961 d	19 Sep 1967 a
Canada	04 Jun 1969 a	04 Jun 1969 a
Cape Verde (P)		09 Jul 1987 a
Central African Republic	04 Sep 1962 d	30 Aug 1967 a
Chad	19 Aug 1981 a	19 Aug 1981 a
Chile	28 Jan 1972 a	27 Apr 1972 a
China	24 Sep 1982 a	24 Sep 1982 a
Colombia	10 Oct 1961 r	04 Mar 1980 a
Congo	15 Oct 1962 d	10 Jul 1970 a
Congo, Democratic Republic of	19 July 1965 a	13 Jan 1975 a
Costa Rica	28 Mar 1978 a	28 Mar 1978 a
Côte d'Ivoire	08 Dec 1961 d	16 Feb 1970 a
Croatia	12 Oct 1992 d	12 Oct 1992 d
Cyprus	16 May 1963 d	09 Jul 1968 a
Czech Republic	11 May 1993 d	11 May 1993 d
Denmark	04 Dec 1952 r	29 Jan 1968 a
Djibouti	09 Aug 1977 d	09 Aug 1977 d
Dominica	17 Feb 1994 a	17 Feb 1994 a
Dominican Republic	04 Jan 1978 a	04 Jan 1978 a
Ecuador	17 Aug 1955 a	06 Mar 1969 a
Egypt	22 May 1981 a	22 May 1981 a
El Salvador	28 Apr 1983 a	28 Apr 1983 a
Equatorial Guinea	07 Feb 1986 a	07 Feb 1986 a
Estonia	10 Apr 1997 a	10 Apr 1997 a
Ethiopia	10 Nov 1969 a	10 Nov 1969 a
Fiji	12 Jun 1972 d	12 Jun 1972 d
Finland	10 Oct 1968 a	10 Oct 1968 a
France	23 Jun 1954 r	03 Feb 1971 a
Gabon	27 Apr 1964 a	28 Aug 1973 a
Gambia	07 Sep 1966 d	29 Sep 1967 a
Georgia	09 Aug 1999 a	09 Aug 1999 a
Germany	01 Dec 1953 r	05 Nov 1969 a
Ghana	18 Mar 1963 a	30 Aug 1968 a
Greece	05 Apr 1960 r	07 Aug 1968 a
Guatemala	22 Sep 1983 a	22 Sep 1983 a
Guinea	28 Dec 1965 d	16 May 1968 a





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Guinea-Bissau	11 Feb 1976 a	11 Feb 1976 a
Haiti	25 Sep 1984 a	25 Sep 1984 a
Holy See	15 Mar 1956 r	08 Jun 1967 a
Honduras	23 Mar 1992 a	23 Mar 1992 a
Hungary	14 Mar 1989 a	14 Mar 1989 a
Iceland	30 Nov 1955 a	26 Apr 1968 a
Iran, Islamic Republic of	28 Jul 1976 a	28 Jul 1976 a
Ireland	29 Nov 1956 a	06 Nov 1968 a
Israel	01 Oct 1954 r	14 Jun 1968 a
Italy	15 Nov 1954 r	26 Jan 1972 a
Jamaica	30 Jul 1964 d	30 Oct 1980 a
Japan	03 Oct 1981 a	01 Jan 1982 a
Kazakhstan	15 Jan 1999 a	15 Jan 1999 a
Kenya	16 May 1966 a	13 Nov 1981 a
Kyrgyzstan	08 Oct 1996 a	08 Oct 1996 a
Korea, Republic of	03 Dec 1992 a	03 Dec 1992 a
Latvia	31 Jul 1997 a	31 Jul 1997 a
Lesotho	14 May 1981 a	14 May 1981 a
Liberia	15 Oct 1964 a	27 Feb 1980 a
Liechtenstein	08 Mar 1957 r	20 May 1968 a
Lithuania	28 Apr 1997 a	28 Apr 1997 a
Luxembourg	23 Jul 1953 r	22 Apr 1971 a
Macedonia, The Former Yugoslav Republic of	18 Jan 1994 d	18 Jan 1994 d
Madagascar (C)	18 Dec 1967 a	
Malawi	10 Dec 1987 a	10 Dec 1987 a
Mali	02 Feb 1973 d	02 Feb 1973 a
Malta	17 Jun 1971 a	15 Sep 1971 a
Mauritania	05 May 1987 a	05 May 1987 a
Mexico	07 June 2000 a	07 June 2000 a
Moldova, Republic of	31 Jan 2002 a	31 Jan 2002 a
Monaco (C)	18 May 1954 a	
Morocco	07 Nov 1956 d	20 Apr 1971 a
Mozambique	16 Dec 1983 a	01 May 1989 a
Namibia	17 Feb 1995 a	17 Feb 1995 a
Netherlands	03 May 1956 r	29 Nov 1968 a
New Zealand	30 Jun 1960 a	06 Aug 1973 a
Nicaragua	28 Mar 1980 a	28 Mar 1980 a
Niger	25 Aug 1961 d	02 Feb 1970 a
Nigeria	23 Oct 1967 a	02 May 1968 a
Norway	23 Mar 1953 r	28 Nov 1967 a
Panama	02 Aug 1978 a	02 Aug 1978 a
Papua New Guinea	17 Jul 1986 a	17 Jul 1986 a
Paraguay	01 Apr 1970 a	01 Apr 1970 a
Peru	21 Dec 1964 a	15 Sep 1983 a
Philippines	22 Jul 1981 a	22 Jul 1981 a
Poland	27 Sep 1991 a	27 Sep 1991 a
Portugal	22 Dec 1960 a	13 Jul 1976 a
Romania	07 Aug 1991 a	07 Aug 1991 a
Russian Federation	02 Feb 1993 a	02 Feb 1993 a



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Rwanda	03 Jan 1980 a	03 Jan 1980 a
Saint Kitts and Nevis (C)	01 Feb 2002 a	
Saint Vincent and the Grenadines	03 Nov 1993 a	03 Nov 2003 a
Samoa	21 Sep 1988 a	29 Nov 1994 a
Sao Tome and Principe	01 Feb 1978 a	01 Feb 1978 a
Senegal	02 May 1963 d	03 Oct 1967 a
Serbia	12 Mar 2001 d	12 Mar 2001 d
Seychelles	23 Apr 1980 a	23 Apr 1980 a
Sierra Leone	22 May 1981 a	22 May 1981 a
Slovakia	04 Feb 1993 d	04 Feb 1993 d
Slovenia	06 Jul 1992 d	06 Jul 1992 d
Solomon Islands	28 Feb 1995 a	12 Apr 1995 a
Somalia	10 Oct 1978 a	10 Oct 1978 a
South Africa	12 Jan 1996 a	12 Jan 1996 a
Spain	14 Aug 1978 a	14 Aug 1978 a
Sudan	22 Feb 1974 a	23 May 1974 a
Suriname	29 Nov 1978 d	29 Nov 1978 d
Swaziland	14 Feb 2000 a	28 Jan 1969 a
Sweden	26 Oct 1954 r	04 Oct 1967 a
Switzerland	21 Jan 1955 r	20 May 1968 a
Tajikistan	07 Dec 1993 a	07 Dec 1993 a
Tanzania, United Republic of	12 May 1964 a	04 Sep 1968 a
Timor-Leste	07 May 2003 a	07 May 2003 a
Togo	27 Feb 1962 d	01 Dec 1969 a
Trinidad and Tobago	10 Nov 2000 a	10 Nov 2000 a
Tunisia	24 Oct 1957 d	16 Oct 1968 a
Turkey	30 Mar 1962 r	31 Jul 1968 a
Turkmenistan	02 Mar 1998 a	2 Mar 1998 a
Tuvalu	07 Mar 1986 d	07 Mar 1986 d
Uganda	27 Sep 1976 a	27 Sep 1976 a
Ukraine	10 Jun 2002 a	04 Apr 2002 a
United Kingdom of Great Britain and Northern Ireland	11 Mar 1954 r	04 Sep 1968 a
United States of America (P)		01 Nov 1968 a
Uruguay	22 Sep 1970 a	22 Sep 1970 a
Venezuela (P)		19 Sep 1986 a
Yemen	18 Jan 1980 a	18 Jan 1980 a
Zambia	24 Sep 1969 d	24 Sep 1969 a
Zimbabwe	25 Aug 1981 a	25 Aug 1981 a

**Limitations:**

Article 1 B(1) of the 1951 Convention provides: "For the purposes of this Convention, the words 'events occurring before 1 January 1951' in article 1, Section A, shall be understood to mean either (a) 'events occurring in Europe before 1 January 1951'; or (b) 'events occurring in Europe or elsewhere before 1 January 1951', and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purposes of its obligations under this Convention."



UNHCR, United Nations High Commissioner for Refugees

The following States adopted alternative (a), the geographical limitation: Congo, Madagascar, Monaco and Turkey. Turkey expressly maintained its declaration of geographical limitation upon acceding to the 1967 Protocol. Madagascar and Monaco have not yet adhered to the Protocol.

All other States Parties ratified, acceded or succeeded to the Convention without a geographical limitation by selecting option (b), 'events occurring in Europe or elsewhere before 1 January 1951'.

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**Notes:**

\* Ratification (r), Accession (a), Succession (d).

\*\* (C) denotes States Parties to the 1951 Convention only; (P) denotes States Parties to the 1967 Protocol only.

\*\*\* As of 4 February 2003, following the adoption and promulgation of the Constitutional Charter of Serbia and Montenegro by the Assembly of the Federal Republic of Yugoslavia, the official name of "The Federal Republic of Yugoslavia" has been changed to "Serbia and Montenegro".

# Declarations and Reservations to the 1967 Protocol relating to the Status of Refugees

*As of 1 March 2006*

## *Declarations and Reservations*

*(Unless otherwise indicated, the declarations and reservations were made upon accession or succession. For objections thereto and territorial applications, see hereinafter.)*

### **Angola**

The Government of Angola, in accordance with article VII, paragraph 1, declares that it does not consider itself bound by article IV of the Protocol, concerning settlement of disputes relating to the interpretation of the Protocol.

### **Botswana**

"Subject to the reservation in respect of article IV of the said Protocol and in respect of the application in accordance with article I thereof of the provisions of articles 7, 17, 26, 31, 32 and 34 and paragraph 1 of article 12 of the Convention relating to the Status of Refugees, done at Geneva on 28 July 1951."

### **Burundi**

In acceding to this Protocol, the Government of the Republic of Burundi enters the following reservations:

1. The provisions of article 22 are accepted, in respect of elementary education, only
  - (a) In so far as they apply to public education, and not to private education;
  - (b) On the understanding that the treatment applicable to refugees shall be the most favourable accorded to nationals of other States.
2. The provisions of article 17 (1) and (2) are accepted as mere recommendations and, in any event, shall not be interpreted as necessarily involving the régime accorded to nationals of countries with which the Republic of Burundi may have concluded regional, customs, economic or political agreements.
3. The provisions of article 26 are accepted only subject to the reservation that refugees:
  - (a) Do not choose their place of residence in a region bordering on their country of origin;
  - (b) Refrain, in any event, when exercising their right to move freely, from any activity or incursion of a subversive nature with respect to the country of which they are nationals.

### **Cape Verde**

In all cases where the 1951 Convention relating to the Status of Refugees grants to refugees the most favorable treatment accorded to nationals of a foreign country, this provision shall not be interpreted as involving the régime accorded to nationals of countries with which Cape Verde has concluded regional customs, economic or political agreements.

**Chile**

*[See chapter V.2.]*

**China**

With a reservation in respect of article 4.

**Congo**

The Protocol is accepted with the exception of article IV.

**El Salvador**

With the reservation that the Government of El Salvador will not apply article 4 of the Protocol.

**Ethiopia**

*[See chapter V.2.]*

**Finland**

*[See chapter V.2.]*

**Ghana**

"The Government of Ghana does not consider itself bound by article IV of the Protocol regarding the settlement of disputes."

**Guatemala**

*[See chapter V.2.]*

**Honduras**

With respect to article I (1):

The Government of the Republic of Honduras does not consider itself bound by those articles of the Convention to which it has entered reservations.

**Israel**

"The Government of Israel accedes to the Protocol subject to the same statements and reservations made at the time of ratifying the Convention [relating to the Status of Refugees, done at Geneva on 28 July 1951], in accordance with the provisions of article VII (2) of the Protocol."

**Jamaica**

"[Subject] to the reservations set out below, ... [:]

1. The Government of Jamaica understands articles 8 and 9 of the Convention as not preventing it from taking, in time of war or other grave and exceptional circumstances, measures in the interest of national security in the case of a refugee on the ground of his nationality.
2. The Government of Jamaica can only undertake that the provisions of paragraph 2 of article 17 of the Convention will be applied so far as the law of Jamaica allows.
3. The Government of Jamaica can only undertake that the provisions of article 24 of the Convention will be applied so far as the law of Jamaica allows.
4. The Government of Jamaica can only undertake that the provisions of paragraphs 1, 2, and 3 of article 25 of the Convention will be applied so far as the law of Jamaica allows.
5. The Government of Jamaica does not accept the obligation imposed by article IV of the Protocol relating to the Status of Refugees with regard to the settlement of disputes."

#### **Latvia**

"Declaration

In accordance with paragraph 2 of the article VII of the [said Protocol], the Republic of Latvia declares that the reservations made in accordance with article 41 of the Convention Relating to the Status of Refugees of 1951 are applicable in relation to the obligations under the Protocol."

*[See chapter V.2.]*

#### **Luxembourg**

*[See chapter V.2.]*

#### **Malawi**

"The Government of the Republic of Malawi reiterates its declaration on recognition as compulsory the jurisdiction of the International Court of Justice made on 12 December, 1966 in conformity with Article 36, paragraph 2 of the Statute of the Court. In this respect, the Government of the Republic of Malawi regards the phrase 'settled by other means' in Article 38 of the Convention and Article IV of the Protocol to be those means stipulated in Article 33 of the Charter of the United Nations."

#### **Malta**

In accordance with article VII (2), the reservations to the Convention relating to the Status of Refugees of 28 July 1951 by the Government of Malta on deposit of its instrument of accession on 17 June 1971, pursuant to article 42 of the said Convention, are applicable in relation to its obligations under the present Protocol.

#### **Netherlands<sup>9</sup>**

"In accordance with article VII of the Protocol, all reservations made by the Kingdom of the Netherlands upon signature and ratification of the Convention relating to the Status of Refugees, which was signed in Geneva on 28 July 1951, are regarded to apply to the obligations resulting from the Protocol."

#### **Peru**

[The Government of Peru] hereby expressly declares, with reference to the provisions of article I, paragraph 1, and article II of the aforementioned Protocol, that compliance with the obligations undertaken by virtue of the act of accession to that instrument shall be ensured by the Peruvian State using all the means at its disposal, and the Government of Peru shall endeavour in all cases to co-operate as far as possible with the Office of the United Nations High Commissioner for Refugees.

#### **Portugal**

"1. The Protocol will be applied without any geographical limitation.

2. In all cases in which the Protocol confers upon the refugees the most favoured person status granted to nationals of a foreign country, this clause will not be interpreted in such a way as to mean the status granted by Portugal to the nationals of Brazil or to the nationals of other countries with whom Portugal may establish commonwealth type relations."

#### **Republic of Korea**

"The Republic of Korea declares pursuant to article 7 of the Protocol that it is not bound by article 7 of the Convention relating to the Status of Refugees, which provides for the exemption of refugees from legislative reciprocity after fulfilling the condition of three years' residence in the territory of the Contracting States."

#### **Rwanda**

Reservation to article IV:

For the settlement of any dispute between States Parties, recourse may be had to the International Court of Justice only with the prior agreement of the Rwandese Republic.

#### **Saint Vincent and the Grenadines**

Reservation:

"In accordance with the provisions of Article VII paragraph 1 of the aforesaid Protocol, however, the Government of Saint Vincent and the Grenadines makes a reservation with respect to Articles IV of the Protocol that, for the submission of any dispute in terms of that article to the jurisdiction of the International Court of Justice, the express consent of all the parties to the dispute is required in each case."

#### **Somalia**

*[See chapter V.2.]*

#### **Swaziland**

Subject to the following reservations in respect of the application of the Convention relating to the Status of Refugees, done at Geneva on 28 July 1951, under article I of the Protocol:

"(1) The Government of the Kingdom of Swaziland is not in a position to assume obligations as contained in article 22 of the said Convention, and therefore will not consider itself bound by the provisions therein;

(2) Similarly, the Government of the Kingdom of Swaziland is not in a position to assume the obligations of article 34 of the said Convention, and must expressly reserve the right not to apply the provisions therein."

Declaration:

"The Government of the Kingdom of Swaziland deems it essential to draw attention to the accession as a Member of the United Nations, and not as a Party to the [Convention relating to the Status of Refugees] by reason of succession or otherwise."

#### **Timor-Leste**

Declaration:

"In conformity with Article VII and I of the Protocol, the Democratic Republic of Timor-Leste accedes to the Protocol, with the understanding that it has made reservations to Articles 16 (2), 20, 21, 22, 23 and 24 of the Convention relating to the Status of Refugees adopted by the General Assembly of the United Nations on the 28 July, 1951."

#### **Turkey**

The instrument of accession stipulates that the Government of Turkey maintains the provisions of the declaration made under section B of article 1 of the Convention relating to the Status of Refugees, done at Geneva on 28 July 1951, according to which it applies the Convention only to persons who have become refugees as a result of events occurring in Europe, and also the reservation clause made upon ratification of the Convention to the effect that no provision of this Convention may be interpreted as granting to refugees greater rights than those accorded to Turkish citizens in Turkey.

**Uganda**

*[See chapter V.2.]*

**United Kingdom of Great Britain and Northern Ireland**

"(a) In accordance with the provisions of the first sentence of Article VII.4 of the Protocol, the United Kingdom hereby excludes from the application of the Protocol the following territories for the international relations of which it is responsible: Jersey, Southern Rhodesia, Swaziland.

(b) In accordance with the provisions of the second sentence of Article VII.4 of the said Protocol, the United Kingdom hereby extends the application of the Protocol to the following territories for the international relations of which it is responsible: St. Lucia, Montserrat."

**United Republic of Tanzania**

"Subject to the reservation, hereby made, that the provisions of Article IV of the Protocol shall not be applicable to the United Republic of Tanzania except within the explicit consent of the Government of the United Republic of Tanzania."

**United States of America**

With the following reservations in respect of the application, in accordance with article I of the Protocol, of the Convention relating to the Status of Refugees, done at New York on 28 July 1951:

"The United States of America construes Article 29 of the Convention as applying only to refugees who are resident in the United States and reserves the right to tax refugees who are not residents of the United States in accordance with its general rules relating to non-resident aliens.

The United States of America accepts the obligation of paragraph 1 (b) of Article 24 of the Convention except insofar as that paragraph may conflict in certain instances with any provisions of title II (old age, survivors' and disability insurance) or title XVIII (hospital and medical insurance for the aged) of the Social Security Act. As to any such provision, the United States will accord to refugees lawfully staying in its territory treatment no less favorable than is accorded aliens generally in the same circumstances."

**Venezuela (Bolivarian Republic of)**

In implementing the provisions of the Protocol which confer on refugees the most favourable treatment accorded to nationals of a foreign country, it shall be understood that such treatment does not include any rights and benefits which Venezuela has granted or may grant regarding entry into or sojourn in Venezuela territory to nationals of countries with which Venezuela has concluded regional or subregional integration, customs, economic or political agreements.

The instrument of accession also contains a reservation in respect of article IV.



*Objections*  
(Unless otherwise indicated, the objections were made  
upon accession or succession.)

<b>Belgium</b>	[See chapter V.2.]
<b>Ethiopia</b>	[See chapter V.2.]
<b>France</b>	[See chapter V.2.]
<b>Germany</b> <sup>7</sup>	[See chapter V.2.]
<b>Italy</b>	[See chapter V.2.]
<b>Luxembourg</b>	[See chapter V.2.]
<b>Netherlands</b>	[See chapter V.2.]
<i>Territorial Application</i>	

Participant :	Date of receipt of the notification :	Territories :
Netherlands	29 Jul 1971	Surinam
United Kingdom <sup>12</sup>	20 Apr 1970	Bahama Islands
	20 Feb 1996	Jersey

## NOTES

1. Official Records of the Economic and Social Council, Forty-first Session, Supplement No. 1A (E/4264/Add.1), p. 1.

2. Official Records of the General Assembly, Twenty-first Session, Supplement No. 16 (A/6316), p. 48.

3. With the following declaration: "The Government of Australia will not extend the provisions of the Protocol to Papua/New Guinea."

4. The former Yugoslavia had acceded to the Protocol on 15 January 1968. See also note 1 under "Bosnia and Herzegovina", "Croatia", "former Yugoslavia", "Slovenia", "The Former Yugoslav Republic of Macedonia" and "Yugoslavia" in the "Historical Information" section in the front matter of this volume.

5. On 27 April 1999, the Government of Portugal informed the Secretary-General that the Protocol would apply to Macao. Subsequently, on 18 November and 3 December 1999, the Secretary-General received communications concerning the status of Macao from the

*Governments of Portugal and China (see also note 3 under "China" and note 1 under "Portugal" regarding Macao in the "Historical Information" section in the front matter of this volume). Upon resuming the exercise of sovereignty over Macao, China notified the Secretary-General that the Convention with the reservation made by China will also apply to the Macao Special Administrative Region.*

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**6.** *Czechoslovakia had acceded to the Protocol on 26 November 1991. See also note 1 under "Czech Republic" and note 1 under "Slovakia" in the "Historical Information" section in the front matter of this volume.*

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**7.** *The German Democratic Republic had acceded to the Protocol on 4 September 1990. See also note 2 under "Germany" in the "Historical Information" section in the front matter of this volume.*

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**8.** *See note 1 under "Germany" regarding Berlin (West) in the "Historical Information" section in the front matter of this volume.*

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**9.** *The Kingdom of the Netherlands accedes to the said Protocol so far as the territory of the Kingdom situated in Europe is concerned; and, as from 1 January 1986, for Aruba.*

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**10.** *Upon notifying its succession (29 November 1978) the Government of Suriname informed the Secretary-General that the Republic of Suriname did not succeed to the reservations formulated on 29 July 1951 by the Netherlands when the Convention and Protocol relating to the Status of Refugees were extended to Suriname.*

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**11.** *The formality was effected by the Yemen Arab Republic. See also note 1 under "Yemen" in the "Historical Information" section in the front matter of this volume.*

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**12.** *Subject to the reservation which was formulated on behalf of the Bahama Islands in respect of the Convention relating to the Status of Refugees.*

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Publisher	UN High Commissioner for Refugees
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Comments	Executive Committee 56th session. Contained in United Nations General Assembly document A/AC.96/1021

## Conclusion on Local Integration

### **The Executive Committee,**

Reaffirming that voluntary repatriation, local integration and resettlement are the traditional durable solutions, and that all remain viable and important responses to refugee situations; reiterating that voluntary repatriation, in safety and dignity, where and when feasible, remains the most preferred solution in the majority of refugee situations; noting that a combination of solutions, taking into account the specific circumstances of each refugee situation, can help achieve lasting solutions; and agreeing that local integration is a sovereign decision and an option to be exercised by States guided by their treaty obligations and human rights principles, and that the provisions of this Conclusion are for the guidance of States and UNHCR when local integration is to be considered,

Recalling the Agenda for Protection Goal 5, Objective 4 requesting the Executive Committee to set out framework considerations for implementing the solution of local integration in the form of a Conclusion; and noting that the provisions of this Conclusion are intended to guide States in their consideration of whether local integration, taking into account the specific

circumstances of each refugee situation, may be an appropriate durable solution for persons accepted as refugees in their territory pursuant to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, or under the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, or the 1984 Cartagena Declaration on Refugees, or under domestic law, as applicable, as well as when implementing it,

Recalling that the ultimate goal of international protection is to achieve durable solutions for refugees; and noting that a solutions orientation is inherent in General Assembly Resolution 428 (V) of 14 December 1950 adopting the Statute of the Office of the United Nations High Commissioner for Refugees, in the Statute itself, and in the 1951 Convention through its provisions on cessation, integration and naturalization,

Considering that refugee situations are international in scope and nature and therefore reiterating its strong commitment to international solidarity and burden and responsibility sharing; and reaffirming UNHCR's catalytic role in assisting and supporting countries receiving refugees, particularly developing countries and countries with economies in transition, and in mobilizing financial assistance and other forms of support, including development assistance from the international community to address the impact of large-scale refugee populations,

Acknowledging that the global refugee situation represents an international challenge requiring international burden and responsibility sharing to be addressed effectively; and, recognizing that allowing for local integration, where applicable, is an act of States which is a durable solution for refugees that contributes to that burden and responsibility sharing, without prejudice to the specific situation of certain developing countries facing mass influxes,

Reiterating that coordinated national and international efforts aimed at addressing the factors that lead to the flow of refugees should continue,

Expressing appreciation for the efforts made in recent years to redouble the search for durable solutions in the context of the Global Consultations on International Protection and of the Agenda for Protection, which fostered, inter alia, the Convention Plus initiative and the Framework for Durable Solutions,

Recognizing that some countries of asylum carry a heavy burden, in particular developing countries, countries with economies in transition and least developed countries which host large numbers of refugees and asylum-seekers, especially when they have arrived as part of a mass influx and have remained for a long period of time,

Noting that local integration in the refugee context is a dynamic and multifaceted two-way process, which requires efforts by all parties concerned, including a preparedness on the part of refugees to adapt to the host society without having to forego their own cultural identity, and a corresponding readiness on the part of host communities and public institutions to welcome refugees and to meet the needs of a diverse population,

Recognizing that local integration needs to be undertaken in a manner that sustains the viability of local communities affected by the presence of refugees and that a failure to do so may result in an unreasonable burden being placed on host countries,

Affirming the value of strengthening capacities in host countries as well as of initiatives enhancing the ability of refugee communities to become self-reliant, as and when appropriate, with adequate support from the international community for the host country and the refugees living there,

Recognizing that promoting the self-reliance of refugees from the outset will contribute towards enhancing their protection and dignity, help refugees manage their time spent in exile effectively and constructively, decrease dependency and enhance the sustainability of any

future durable solution,

Recognizing the positive contributions, including economic benefits, which refugees who integrate locally or who are allowed to become self-reliant could make to host countries and communities,

Recalling Executive Committee Conclusion No. 15, that decisions by States with regard to the granting of asylum shall be made without discrimination as to race, religion, political opinion or membership of a particular social group, nationality or country of origin; and acknowledging in this context that integration potential should not be a criterion for granting asylum,

- (a) Recognizes that the provisions of this Conclusion are intended to guide States in their consideration of whether local integration may be an appropriate durable solution for persons accepted as refugees in their territory pursuant to the 1951 Convention and its 1967 Protocol, or under the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, or the 1984 Cartagena Declaration on Refugees, or under domestic law, as applicable, as well as when implementing it;
- (b) Acknowledges the importance of comprehensive approaches especially for the resolution of protracted and large-scale refugee situations, which incorporate, as appropriate and given the specifics of each refugee situation, voluntary repatriation, local integration and resettlement;
- (c) Encourages States, UNHCR and other relevant actors to engage in consultations to develop, as early on as possible in a refugee situation, comprehensive arrangements that draw upon appropriate solutions, including through a combination of solutions, and which recognize the challenges involved with the timing and sequencing of solutions; and

emphasizes the important place which local integration can have in such comprehensive arrangements;

- (d) Notes that the 1951 Convention and its 1967 Protocol set out rights and minimum standards for the treatment of refugees that are geared towards the process of integration; recognizes the need for State Parties to implement their obligations under these instruments fully and effectively; and therefore encourages State Parties maintaining reservations to consider withdrawing them; and calls on States to facilitate, as appropriate, the integration of refugees, including, as far as possible, through facilitating their naturalization;
- (e) Encourages States, UNHCR and other relevant actors when preparing comprehensive arrangements to consider the characteristics of individuals and groups of refugees within a broader refugee population who could benefit from voluntary repatriation, local integration or resettlement;
- (f) Urges States and UNHCR to continue working proactively on local integration where appropriate and feasible and in a manner that takes into account the needs and views of both refugees and their hosting communities;
- (g) Notes that the criteria for identifying refugees who could benefit from local integration should be clear and objective and be applied in a non-discriminatory manner;
- (h) Reaffirms the importance, in this respect, of registration, or ad hoc surveys where these take place, as a means of facilitating the implementation of appropriate durable solutions; and encourages States and UNHCR to utilize the registration data of refugees in this process, in a manner that fully respects international norms and standards regarding the protection of personal data;

- (i) Notes that characteristics which may assist in determining circumstances in which local integration can be an appropriate durable solution could include, subject to States' consideration:
- i. refugees born in asylum countries who might otherwise become stateless; and/or
  - ii. refugees who, due to their personal circumstances including the reasons prompting their flight, are unlikely to be able to repatriate to their country of origin in the foreseeable future; and/or
  - iii. refugees who have established close family, social, cultural and economic links with their country of asylum, including those who already have, or have the capacity to attain, a considerable degree of socio-economic integration.
- (j) Welcomes the practice in States with developed asylum systems of allowing refugees to integrate locally; and calls on these States to continue supporting refugees' ability to attain this durable solution through the timely grant of a secure legal status and residency rights, and/or to facilitate naturalization;
- (k) Acknowledges that the process of local integration is complex and gradual, comprising three distinct but inter-related legal, economic, and social and cultural dimensions, all of which are important for refugees' ability to integrate successfully as fully included members of society; and notes that refugees' understanding of these dimensions may need to be facilitated through proper counselling and advice;
- (l) Affirms the particular importance of the legal dimension of integration, which entails the host State granting refugees a secure legal status and a progressively wider range of rights and entitlements that are broadly commensurate with those enjoyed by its citizens and, over time, the possibility of naturalizing, and in this respect:



- i. recognizes the relevance of the 1951 Convention and its 1967 Protocol and relevant human rights instruments as providing a useful legal framework for guiding the local integration process;
  - ii. recognizes further that in support of the legal process, host countries may need technical and financial support to adapt and revise their national legal and administrative frameworks to allow refugees equal enjoyment of rights, services and programmes without discrimination;
- (m) Notes the important part, subject to States' consideration, self-reliance plays in the economic dimension of local integration of refugees whereby individuals, households and communities are enabled increasingly to become self-sufficient and can contribute to the local economy, and in this respect:
- i. recognizes that the protection, in all States, of basic civil, economic and social rights, including freedom of movement and the right to engage in income-generating activities is essential to the achievement of self-reliance of refugees;
  - ii. encourages all States hosting refugees to consider ways in which refugee employment and active participation in the economic life of the host country can be facilitated, inter alia, through education and skills development, and to examine their laws and practices, with a view to identifying and to removing, to the extent possible, existing obstacles to refugee employment; and in this regard, affirms the relevance of the 1951 Convention in providing a framework for the creation of conditions conducive to the self-reliance of refugees;
  - iii. encourages States, wherever possible, to recognize the equivalency of academic, professional and vocational diplomas, certificates and degrees acquired by refugees prior to entry into the host country;
  - iv. notes that facilitating refugees' access to agricultural land in rural areas where appropriate and when feasible is a positive contribution by all States, which can help

foster opportunities for self-reliance and enhance the food security of refugees and the local population;

(n) Emphasizes that the social and cultural dimension of local integration requires refugees to make conscientious efforts to adapt to the local environment and respect and understand new cultures and lifestyles, taking into consideration the values of the local population, and requires the host community to accept refugees into its socio-cultural fabric, both processes being underpinned by values of diversity, non-discrimination and tolerance, and in this respect:

- i. encourages the implementation of anti-discrimination policies and awareness-raising activities aimed at combating institutionalized discrimination and at promoting the positive aspects of a diverse society and interaction between refugees, the local population, civil society and refugee organizations;
- ii. urges States and all relevant actors to combat intolerance, racism and xenophobia, including obstacles faced by refugee women, and to foster empathy and understanding through public statements, appropriate legislation and social policies, especially with regard to the special situation of refugees with the aim of allowing refugees to participate actively in the civic, economic, and social and cultural life of the host country;
- iii. recognizes the link between education and durable solutions; and calls on States, UNHCR and relevant actors to strengthen their efforts to assist host countries in ensuring refugee children's access to education;
- iv. reaffirms the importance of family unity and reunification as referred to in its Conclusions Nos. 9, 24, 84, and 88; and recognizes that family members can reinforce the social support system of refugees, and in so doing, promote the smoother and more rapid integration of refugee families;

- (o) Emphasizes that age and gender sensitive approaches, and attention to participatory and community development processes should permeate all activities aimed at enhancing the capacities of refugees to integrate locally, recognizing changes in gender roles following displacement and the need for different strategies and support to boost the integration capacity of various groups with special needs, such as refugee women, refugee children and older refugees;
- (p) Encourages UNHCR to develop and apply appropriate standards and indicators that account for age and gender considerations in local integration and self-reliance programs;
- (q) Acknowledges that, regardless of whether local integration takes place in an industrialized or a developing State, it requires the host State to take the lead role, as well as the sustained commitment of all stakeholders of the necessary time and resources; and recognizes the important role which members of civil society, including non-governmental organizations, can play in fostering an environment conducive to local integration;
- (r) Recognizes the importance, in the interest of burden and responsibility sharing, of international cooperation and assistance for building the capacity of developing countries and countries with economies in transition with limited resources so as to assist these States in integrating refugees locally, where appropriate and feasible; and recommends that the planning, design and implementation of local integration programmes include elements aimed at strengthening the capacity of host State institutions, local communities, and civil society, including non-governmental organizations, refugees and their communities;
- (s) Stresses the importance of including refugee hosting areas in national development plans and strategies of the host country for sustainable funding; notes the relevance, in this respect, of the common country assessments (CCA) and United Nations Development

Assistance Frameworks (UNDAF), as well as Poverty Reduction Strategy Papers (PRSP); and notes the value of the Development through Local Integration (DLI) integrated programming approach as a methodology for partnerships with donor countries, financial institutions and with United Nations and other development agencies.

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2009 세계난민의 날 기념 토론회  
국내 체류 난민의 기본권 보호와  
사회통합을 위한 정책 방향

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| 발 행 | 2009년 6월

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