

**United Nations Conference on the Elimination or Reduction of Future  
Statelessness**

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**Memorandum submitted by the Co-ordinating Board of Jewish Organizations**

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UNITED NATIONS CONFERENCE ON THE ELIMINATION  
OR REDUCTION OF FUTURE STATELESSNESS

Memorandum submitted by the Co-ordinating  
Board of Jewish Organizations

Note by the Secretariat

The attached memorandum has been submitted to the Secretariat by the Co-ordinating Board of Jewish Organizations, a non-governmental organization in consultative status (category B) with the Economic and Social Council, with a request that it be distributed as a Conference document.

Rule 50 of the Provisional Rules of Procedure (A/CONF.9/2) provides as follows:

"Non-governmental organizations attending the Conference may, upon the invitation of the President, submit written or oral statements to the Conference on subjects for which these organizations have a special competence."

In view of the fact that this memorandum deals in part with problems relating to the method of work and procedures of the Conference, it is being distributed prior to the opening of the Conference for the convenience of invited States whose delegations are preparing for the Conference. The status of the memorandum must, however, remain subject to the decision by the Conference with regard to the Rule of Procedure under which it is submitted.

M E M O R A N D U M

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Submitted by  
the

CO-ORDINATING BOARD OF JEWISH ORGANIZATIONS

For Consultation with the Economic and Social  
Council of the United Nations

to the

United Nations Conference  
on the  
Elimination or Reduction of Future Statelessness

24 March - 17 April 1959

Geneva, Switzerland

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The Co-ordinating Board of Jewish Organizations (CBJO) has welcomed the decision by the International Law Commission to prepare Conventions on the Elimination and on the Reduction of Future Statelessness. The adoption of a Convention of this character by a large number of States would greatly assist in realizing the principle laid down in Article 15 of the Universal Declaration of Human Rights, i.e., "Everyone has the right to a nationality".

The CBJO realizes that the adoption of either of the Conventions would not affect the position of such persons as are stateless today. In their case, only naturalization could bring relief. But the adoption of either Convention would help to ensure the right of a nationality to children subsequently born to nationals of any of the contracting States or on the territory of any of the contracting States.

If the Convention was widely adopted, statelessness would cease to be a problem in the foreseeable future. The CBJO, therefore, expresses the hope that the Conference of Plenipotentiaries will adopt a Convention and that thereafter a large number of States will adhere to it.

The CBJO is aware of the reasons which induced the International Law Commission to draft two alternative Conventions, one for the Elimination of Statelessness, the other for the Reduction of Future Statelessness. While the draft on Elimination should be regarded as the ideal solution, many States have intimated that the adoption of this Convention would necessitate such important and far-reaching changes in their municipal laws that they could not undertake at the present juncture to accept such a Convention. The draft on Reduction of Future Statelessness is directed toward the solution of these difficulties.

Nevertheless, the fact that two alternative drafts exist and are before the Conference creates a new problem. The Conference can decide to adopt both draft Conventions simultaneously and leave it to the States which one to sign; or it can decide to adopt one of the alternative Conventions as the basic draft and use the second alternative Convention merely for the purpose of amending the basic text. The CBJO fears that the adoption of the first course - namely, to adopt both drafts - would lead to unhappy results. Even if the adoption of the more radical solution - the Convention on Elimination of Statelessness - would necessitate only very minor changes in their municipal legislation, States may

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tend to sign only the Convention on Reduction of Future Statelessness, as being less onerous; or if some States adhered to the Convention on Elimination, while others adhered to the Convention on Reduction, it would take much longer to obtain the minimum number of ratifications for either. The adoption of two separate Conventions would also create difficult legal problems as to the treaty relationship existing between the parties signatories of the Convention on Elimination and those signatories of the Convention on Reduction of Future Statelessness. Would there be any treaty relationship between them? Would, for instance, Article 4 of the draft on Elimination apply to States having adhered to the Convention on Reduction and vice versa?

The CBJO therefore suggests that the best course would be to adopt the draft Convention on the Elimination of Statelessness as the basic text and to permit States adhering to the Convention on Elimination of Statelessness to make reservations to a far larger extent than is at present conceded by Article 13 of the draft. States might be permitted to make reservations without time-limit to Articles 1, 4, 7 and 8, but such reservations would have to be within the limits of the text proposed in the draft on Reduction of Statelessness. One State might feel difficulties only with regard to Article 7, Paragraph 3 of the draft on Elimination, but could nevertheless sign and ratify the Convention on Elimination of Statelessness subject to this reservation on Article 7, Paragraph 3, viz., that a naturalized person may also lose his nationality on the grounds now laid down in Article 7, Paragraph 3, second sentence of the draft on Reduction of Statelessness. Such a method would help States to avoid difficulties and yet to adhere to the Conventions to the limit possible under their respective municipal legislations.

In Article 1, Paragraph 3, and Article 4 of the draft on Reduction of Future Statelessness, the phrase reads: "normally resident in its territory". Under such wording each State could arbitrarily decide what "normally" means. As both Articles apply to minors presumably up to eighteen years of age, it might be advisable to fix a time-limit and to replace the word "normally" by, for example, "not less than half his lifetime", or, "not less than nine years".

While the points affecting the wording of Article 1 and 4 might be regarded merely as questions of drafting, the same cannot be said of Article 11 of both draft Conventions. This Article deals with a vital matter of principle. In the

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view of the CBJO the value of a Convention on Future Statelessness depends on the inclusion of this Article, substantially in the form as proposed in the draft. While a Convention would be a treaty between sovereign States, imposing certain obligations on the States parties to the Convention, those benefitting from the Convention will be individuals who without the Convention would either be stateless or whose nationality would be in doubt. Many - possibly the majority - of the beneficiaries would be minors and in most cases their parents would be either stateless persons or persons not having the nationality of the country which the minor could claim under the Convention. These cases are fraught with difficult legal questions involving factual evidence which must be furnished, yet which is almost impossible to obtain.

In the same way as it was found necessary by the United Nations to provide legal protection for refugees up to the moment when they have acquired a new nationality, so it will be essential that a United Nations Agency be established which would be able, whenever necessary, to give similar legal protection to persons who do not enjoy such legal protection by a State. When in an individual case doubt exists as to whether a person comes within the terms of one of the Articles of the Convention, or when two States are in disagreement as to which nationality the person concerned should possess under the Convention, it is essential that the United Nations Agency be empowered to negotiate with the States concerned and give legal protection to the individual in question until the matter of his nationality has been settled. It appears unlikely that the cases where such Agency would have to intervene would be very numerous. No large new department would be required and it might even be possible to use the services of another existing United Nations entity. But it is absolutely essential that some Agency within the framework of the United Nations be established which could act on behalf of individuals whose nationality is in doubt.

In the view of the CBJO, it would also be most desirable to establish a Tribunal as provided in Article 11, Paragraph 2, of the draft to decide in cases of disputes between two States parties to the Convention, or between a State party to the Convention and the Agency, on the interpretation or the application of the Convention. The arguments presented by some Governments opposing the rights of

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individuals or organizations to appeal to an international Tribunal against a Government's action do not here apply. The Tribunal provided for in Article 11, Paragraph 2, would not adjudicate between a State and an individual but rather between a State and an individual but rather between two States or between a State and a United Nations Agency. The Agency would act for and on behalf of an individual but not under instructions by the individual or the individual's guardian. The Agency would act on its own free and unfettered decision "when it deems appropriate".

The Tribunal also would not have to judge "actions" by a particular Government. The Tribunal would merely interpret the meaning of any of the Articles of the Convention, or decide on facts; as for instance where a person has acquired a particular nationality, whether a person had been an inhabitant of a territory which had been transferred, whether a person who had been deprived of a nationality had thereby become stateless, etc., etc. The Tribunal would thus merely interpret the law and establish the facts - it would not pass judgement on actions of Governments. Thus many of the difficulties which might be said to arise if an International Tribunal could pass judgement on actions of Governments, would certainly not arise with regard to the Tribunal provided for in Article 11, Paragraph 2.

The Co-ordinating Board of Jewish Organizations therefore appeals to the Conference of Plenipotentiaries on Statelessness to adopt Article 11.

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