

**Draft Convention on the Reduction
of Future Statelessness**
1954

Text adopted by the International Law Commission at its sixth session, in 1954, and submitted to the General Assembly as a part of the Commission's report covering the work of that session (at para. 25). The report appears in *Yearbook of the International Law Commission, 1954*, vol. II.



**DRAFT CONVENTION ON THE ELIMINATION
OF FUTURE STATELESSNESS***Preamble*

Whereas the Universal Declaration of Human Rights proclaims that "everyone has the right to a nationality",

Whereas the Economic and Social Council has recognized that the problem of stateless persons demands "the taking of joint and separate action by Member nations in co-operation with the United Nations to ensure that everyone shall have an effective right to a nationality",

Whereas statelessness often results in suffering and hardship shocking to conscience and offensive to the dignity of man,

Whereas statelessness is frequently productive of friction between States,

Whereas statelessness is inconsistent with the existing principle which postulates nationality as a condition of the enjoyment by the individual of certain rights recognized by international law,

Whereas the practice of many States has increasingly tended to the progressive elimination of statelessness,

Whereas it is imperative, by international agreement, to eliminate the evils of statelessness,

The Contracting Parties

Hereby agree as follows:

Article 1

A person who would otherwise be stateless shall acquire at birth the nationality of the Party in whose territory he is born,

Article 2

For the purpose of article 1, a foundling, so long as his place of birth is unknown, shall be presumed to have been born in the territory of the Party in which he is found.

Article 3

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Whereas the practice of many States has increasingly tended to the progressive elimination of statelessness,

Whereas it is desirable to reduce statelessness, by international agreement, so far as its total elimination is not possible,

The Contracting Parties

Hereby agree as follows:

Article 1

1. A person who would otherwise be stateless shall acquire at birth the nationality of the Party in whose territory he is born.

2. The national law of the Party may make preservation of such nationality dependent on the person being normally resident in its territory until the age of eighteen years and on the condition that on attaining that age he does not opt for and acquire another nationality.

3. If, in consequence of the operation of paragraph 2, a person on attaining the age of eighteen years would become stateless, he shall acquire the nationality of one of his parents, if such parent has the nationality of one of the Parties. Such Party may make the acquisition of its nationality dependent on the person having been normally resident in its territory. The nationality of the father shall prevail over that of the mother.

Article 2

For the purpose of article 1, a foundling, so long as his place of birth is unknown, shall be presumed to have been born in the territory of the Party in which he is found.

Article 3

For the purpose of article 1, birth on a vessel shall be deemed to have taken place within the

ritory of the State whose flag the vessel flies. Birth on an aircraft shall be considered to have taken place within the territory of the State where the aircraft is registered.

Article 4

If a child is not born in the territory of a State which is a Party to this Convention he shall, if otherwise stateless, acquire the nationality of the Party of which one of his parents is a national. The nationality of the father shall prevail over that of the mother.

Article 5

If the law of a Party entails loss of nationality as a consequence of any change in the personal status of a person such as marriage, termination of marriage, legitimation, recognition or adoption, such loss shall be conditional upon acquisition of another nationality.

Article 6

(previous article 5, paragraph 2)

The change or loss of the nationality of a spouse or of a parent shall not entail the loss of nationality by the other spouse or by the children unless they have or acquire another nationality.

Article 7

(previous article 6)

1. Renunciation shall not result in loss of nationality unless the person renouncing it has or acquires another nationality.

2. A person who seeks naturalization in a foreign country or who obtains an expatriation permit for that purpose shall not lose his nationality unless he acquires the nationality of that foreign country.

3. A person shall not lose his nationality, so as to become stateless, on the ground of departure, stay abroad, failure to register or on any other similar ground.

Article 8

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A Party may not deprive its nationals of their nationality by way of penalty or on any other ground if such deprivation renders them stateless.

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2. A person who seeks naturalization in a foreign country or who obtains an expatriation permit for that purpose shall not lose his nationality unless he acquires the nationality of that foreign country.

3. A natural-born national shall not lose his nationality, so as to become stateless, on the ground of departure, stay abroad, failure to register, or on any other similar ground. A naturalized person may lose his nationality on account of residence in his country of origin for the period specified by the law of the Party which granted the naturalization.

Article 8

(previous article 7)

1. A Party may not deprive its nationals of their nationality by way of penalty or on any other ground if such deprivation renders them stateless, except on the ground mentioned in article 7, paragraph 3, or on the ground that they voluntarily enter or continue in the service of a foreign country in disregard of an express prohibition of their State.

Article 9

(previous article 8)

A Party may not deprive any person or group of persons of their nationality on racial, ethnic, religious or political grounds.

Article 10

(previous article 9)

1. *Every treaty providing for the transfer of a territory shall include provisions for ensuring that, subject to the exercise of the right of option, the inhabitants of that territory shall not become stateless.*

2. *In the absence of such provisions, a State to which territory is transferred, or which otherwise acquires territory, or a new State formed on territory previously belonging to another State or States, shall confer its nationality upon the inhabitants of such territory unless they retain their former nationality by option or otherwise or have or acquire another nationality.*

Article 11

(previous article 10)

1. *The Parties undertake to establish, within the framework of the United Nations, an agency to act, when it deems appropriate, on behalf of stateless persons before Governments or before the tribunal referred to in paragraph 2.*

2. *The Parties undertake to establish, within the framework of the United Nations, a tribunal which shall be competent to decide any dispute between them concerning the interpretation or application of this Convention and to decide complaints presented by the agency referred to in paragraph 1 on behalf of a person claiming to have been denied nationality in violation of the provisions of the Convention.*

3. *If, within two years after the entry into force of the Convention, the agency or the tribunal referred to in paragraphs 1 and 2 has not been established by the Parties, any of the Parties shall have the right to request the General Assembly to establish such agency or tribunal.*

4. *The Parties agree that any dispute between them concerning the interpretation or application of the Convention shall, if not referred to the tribunal provided for in paragraph 2, be submitted to the International Court of Justice.*

Article 12

1. *The present Convention, having been approved by the General Assembly, shall until . . . (a year after the approval of the General Assembly) be open for signature on behalf of any Member of the United Nations and of any non-member*

2. *In the cases to which paragraph 1 above refers, the deprivation shall be pronounced in accordance with due process of law which shall provide for recourse to judicial authority.*

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Article 12

1. *The present Convention, having been approved by the General Assembly, shall until . . . (a year after the approval of the General Assembly) be open for signature on behalf of any Member of the United Nations and of any non-member*

State to which an invitation to sign is addressed by the General Assembly.

2. The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. After . . . (the above date) the present Convention may be acceded to on behalf of any Member of the United Nations and of any non-member State which has received an invitation as aforesaid. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 13

1. At the time of signature, ratification or accession any State may make a reservation permitting it to postpone, for a period not exceeding two years, the application of the Convention pending the enactment of necessary legislation.

2. No other reservations to the present Convention shall be admissible.

Article 14

1. The present Convention shall enter into force on the ninetieth day following the date of the deposit of the . . . (e.g., third or sixth) instrument of ratification or accession.

2. For each State ratifying or acceding to the present Convention subsequently to the latter date, the Convention shall enter into force on the ninetieth day following the deposit of the instrument of ratification or accession by that State.

Article 15

Any Party to the present Convention may denounce it at any time by a written notification addressed to the Secretary-General of the United Nations. Such denunciation shall take effect for the said Party one year after the date of its receipt by the Secretary-General.

Article 16

1. The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States referred to in article 12 of the following particulars:

- (a) Signatures, ratifications and accessions under article 12;
- (b) Reservations under article 13;
- (c) The date upon which the present Convention enters into force in pursuance of article 14;
- (d) Denunciations under article 15.

Article 17

1. The present Convention shall be deposited with the Secretariat of the United Nations.

2. A certified copy of the Convention shall be transmitted to all Members of the United Nations and to the non-member States referred to in article 12.

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PART TWO

Present statelessness

26. At its fifth session, the Commission requested Mr. Roberto Córdova, the Special Rapporteur, to inquire further into the question of present statelessness and to prepare a report for its sixth session (A/2456, paragraph 123).

27. The relevant report, entitled "Third Report on the Elimination or Reduction of Statelessness" (A/CN.4/81), contains four draft international instruments: a Protocol for the Elimination of Present Statelessness attached to the draft Convention on the Elimination of Future Statelessness, a Protocol for the Reduction of Present Statelessness attached to the draft Convention on the Reduction of Future Statelessness, an Alternative Convention on the Elimination of Present Statelessness and an Alternative Convention on the Reduction of Present Statelessness.

28. The Commission discussed the report at its 246th to 250th, 275th, 276th and 280th meetings.

29. The Commission considered that it was not feasible to suggest measures for the total and immediate elimination of present statelessness. The Special Rapporteur accordingly withdrew the draft Protocol for the Elimination of Present Statelessness and the Alternative Convention for the Elimination of Present Statelessness. The Commission also considered that the solutions offered by the draft Protocol on the Reduction of Present Statelessness, under which the provisions of the draft Convention for the Reduction of Future Statelessness were to be applicable to present statelessness, would not be acceptable. Hence the Special Rapporteur also withdrew this draft Protocol. In the course of the discussion (A/CN.4/SR.246) Mr. Lauterpacht submitted certain proposals for the reduction of present statelessness. The texts actually before the Commission were therefore Mr. Lauterpacht's proposals and the Alternative Convention on the Reduction of Present Statelessness prepared by the Special Rapporteur. It decided to accept the Special Rapporteur's draft as the basis of its discussion.

30. The Special Rapporteur amended his draft in the course of the discussion, to some extent taking into account Mr. Lauterpacht's proposals.

31. In formulating its proposals relating to present statelessness, the Commission considered that present statelessness could only be reduced if stateless persons acquired a nationality which would normally be that of the country of residence. Since, however, the acquisition of nationality is in all countries governed by certain statutory conditions including residence qualifications, the Commission considered that for the purpose of improving the condition of statelessness it

would be desirable that stateless persons should be given the special status of "protected person" in their country of residence prior to the acquisition of a nationality. Stateless persons possessing this status would have all civil rights accorded to nationals with the exception of political rights, and would also be entitled to the diplomatic protection of the Government of the country of residence; the protecting State might impose on them the same obligations as it imposed on nationals.

32. The Commission welcomed the resolution of the Economic and Social Council endorsing the principles underlying the work of the Commission for the elimination or reduction of statelessness (resolution 526 B (XVII)) and also the decision of the Council to convene a conference of plenipotentiaries to review and adopt a protocol relating to the status of stateless persons by which certain provisions of the Convention relating to the Status of Refugees of 28 July 1951 would become applicable to stateless persons (resolution 526 A (XVII)).

33. The Commission considered the question of the relation of its work on present statelessness to the subject of the forthcoming conference of plenipotentiaries. It was of the opinion that, while the object of that conference was the regulation of the status of stateless persons by international agreement, the Commission was itself primarily concerned with the reduction of present statelessness.

34. In considering the problem of present statelessness, the Commission was aware of the fact that stateless persons who are refugees as defined in the Statute of the Office of the United Nations High Commissioner for Refugees receive international protection by the United Nations through the High Commissioner. The suggestions contained in the present report are without prejudice to the question of granting international protection by an international agency, as distinguished from diplomatic protection by States, to stateless persons pending their acquisition of a nationality.

35. The Special Rapporteur also proposed that *de facto* stateless persons should be assimilated to *de jure* stateless persons as regards the right to the status of "protected person" and the right to naturalization, provided that they renounced the ineffective nationality they possessed. This proposal was rejected by the Commission.

36. In view of the great difficulties of a non-legal nature which beset the problem of present statelessness, the Commission considered that the proposals adopted, though worded in the form of articles, should merely be regarded as suggestions which Governments may wish to take into account when attempting a solution of this urgent problem.