

CHAPTER I

INTRODUCTION

A. GENERAL

1. The intergovernmental bodies previously dealing with refugees were the League of Nations, particularly through its High Commissioners, the Intergovernmental Committee on Refugees and the United Nations Relief and Rehabilitation Administration. The International Refugee Organization (and previously its Preparatory Commission) continues the work formerly undertaken by those bodies, insofar as such work is in accordance with the mandate of the IRO as defined in the constitution.

2. Intergovernmental work on behalf of refugees over the past four years has been in its broad outline very similar to the intergovernmental work of the six years after 1919. Although previous events, particularly concerning Armenians in Turkey, had given rise to a considerable refugee problem, it was the exodus from Russia beginning in 1919 which caused the League of Nations to recognize that the problem of refugees could only be solved by international action. In 1921, the Council of the League of Nations appointed Fridtjof Nansen as High Commissioner. The work for refugees passed through a first critical stage during which life-saving measures were most important. The work progressed to a second stage during which the refugees were evacuated from the countries which had offered them temporary hospitality. By 1928, the second phase was more or less completed and the work entered on its third phase which consisted of the integration of the refugees into the life and economy of the several countries which had received them as immigrants. The process of integration was assisted by the establishment in many countries of procedures deriving from international Conventions and Agreements under which both governments and refugees were able to obtain some mitigation of the disabilities caused by the legal anomaly of statelessness, disabilities only completely overcome by the acquisition of a new citizenship.

3. Those three phases of work were not separated in time, for example, as early as 1922 an arrangement for the issue of Nansen Passports was adopted by 53 governments. Similarly the work of the past four years contains elements referring to logically different phases. For example, at the time when the work of the Armies and of UNRRA in maintaining refugees was not yet fully developed, in 1946 the Intergovernmental Committee on Refugees (whose director, Sir Herbert Emerson, was the last successor of Dr. Nansen as League of Nations High Commissioner) opened negotiations for resettlement in most of the countries to which refugees are now going and sixteen governments signed an agreement for the issue of travel documents for *de facto* stateless persons who were the concern of the Intergovernmental Committee on Refugees and are now the concern of IRO¹.

4. The three main facets of IRO's work correspond to the three main phases of international activity for refugees. They are the temporary relief action of care and maintenance, the movement on repatriation or resettlement and (so far as resettlement is

¹ It should be noted that travel documents issued under that Agreement (of 15 October, 1946) are not limited in function merely to assist emigration and resettlement. They are an attempted substitute for national passports and may be used for all forms of travel.

concerned) the full re-establishment whose object is the acquisition of citizenship and whose means imply some appropriate form of protection in place of the reciprocal arrangements normally existing between governments for the protection of aliens.

5. Thus, when the question arises of determining in the case of an applicant whether or not he is within the mandate of the Organisation, it is not the whole point to discover whether or not he needs assistance to maintain himself, or whether or not he is a suitable person to be recommended as a refugee immigrant to some country or other. The attitude of IRO to an individual refugee is related to its whole task, not merely one part of it, as well as to the process of historical development of which its task is part. It is necessary, therefore, to find out whether the applicant is or is not fundamentally a displaced person or a true refugee who has been bereft in law or in fact of national protection and also whether he falls within the mandate of the Organization according to its Constitution. It must be remembered that not all stateless persons are within the constitutional mandate. If a person is within the mandate, then it is for the Organization to determine what services, if any, will be provided for him. There is no obligation on the Organization to render any particular service: the status of IRO protected person implies only the potentiality of material assistance.

B. TERMINOLOGY

6. In the course of time a number of discrepancies have crept into the terminology in use in the Organization on the subject under reference. In future, as an aid to clarity and uniformity, the following expressions will be used:

- (a) "within the mandate of the Organization": this will refer to any person who is a refugee or displaced person according to the definitions in Section A and B of Part I of Annex I to the Constitution *and* who has become the concern of the Organization under the conditions described in Section C of that Part of Annex I *and* who has not ceased to be the concern of the Organization under the circumstances described in Section D of that Part of Annex I *and* who is not covered by the provisions of Part II of that Annex. This expression will replace the phrases "eligible" or "basically eligible", where they have been used.
- (b) "not within the mandate of the Organization": this will refer to all persons not covered by (a) above.
- (c) "eligible for repatriation": this will be used as an additional qualification to (a) above in respect of persons who can be repatriated — i.e. *inter alia*, who are willing to be repatriated — and who require the assistance of the Organization for that purpose. Persons become eligible for this service as a result of the constitutional provisions of Section C of Part I of Annex I to the Constitution.
- (d) "eligible for resettlement":
"eligible for re-establishment *sur place*":
"eligible for legal and political protection": etc.

7. These phrases will be used as additional qualifications to (a) above when in the view of the officer concerned limitation of the services to be provided by the Organization to the individual concerned is desirable on practical, financial or other adequate grounds. In principle this Manual is not concerned with the criteria for determining eligibility for particular services. However, all persons within the mandate will be regarded as eligible for legal and political protection and, normally, for repatriation.

C. LOGICAL PROCESSES IN DETERMINING WHO IS THE CONCERN OF THE ORGANIZATION

8. This process can be divided into three stages :

(i) STAGE ONE should consist of ascertaining whether the applicant comes within any one of the categories of refugees or DPs, as defined in Sections A and B of Part I of Annex I to the Constitution.

(ii) STAGE TWO besides belonging to the broad categories above (or to a new category which might be established by the competent organ of the Organization), an applicant should also be examined as to whether he is not disqualified from becoming the concern of the Organization under Part II.

9. These two stages having been successfully passed, the Eligibility Officer may now consider the applicant as a "genuine refugee or displaced person". However, this does not yet fully determine whether the applicant is within the mandate.

(iii) STAGE THREE should consist of submitting the applicant to the following test, after it has been ascertained that there would be no material obstacle to his return to his country of nationality or former habitual residence :

He must *definitely in complete freedom*, and after receiving "*adequate information*" express "*valid objections*" against returning to his country of nationality or former habitual residence according to Section C 1 (a) of Part I of Annex I to the Constitution.

10. Provisionally after stage three, the position of the refugee or displaced person is defined. But this does not mean that his position will now be permanent. On the contrary, the question of whether an individual comes within the mandate of the Organization must be continuously kept under review, with a view to applying, when necessary, any one of the clauses of Section D of Part I, which deals with the conditions under which an individual ceases to be the concern of IRO.

11. If, after completing the second stage, an Eligibility Officer finds that a genuine refugee or displaced person wishes to be repatriated, it is evident that such a person need not be questioned in respect of "valid objections" or of "adequate information" (which he may be presumed to have obtained). It follows that a person who is accepted for repatriation and who afterwards changes his mind and applies for resettlement must pass the test concerning valid objections before he can be resettled.