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# THE FAMILY ABANDONED BY A MIGRANT

DR. T. STARK\*

ORGANISATIONS DEALING WITH MIGRATION and social service, in emigration and immigration countries, are often called on to handle cases of women and children abandoned without adequate means of subsistence by a breadwinner who has emigrated abroad.

Examples of such situations could be quoted by the hundreds. There is for instance, the case of the young migrant who concealed from recruitment authorities that he was married and had a child, and who emigrated to Australia; and another who left on a work contract to Latin America, where, discouraged and frustrated by immigration restrictions and the cost of the trip overseas, he formed new ties in the immigration country, leaving his wife with the full burden of supporting their children. And how often have mass displacements of refugees after the last war increased the number of abandoned families? How often are breadwinners escaping from behind the Iron Curtain, ostensibly for political reasons, in reality fleeing from family responsibilities?

There is no need to stress the consequences of family abandonment in both emigration and immigration countries. In the former they involve the manifold problems of separated families, deserted wives and legitimate or illegitimate children, living under the most difficult circumstances. In the immigration countries, many men who have tried to solve their personal problems by fleeing to another country are easily disappointed and, after a lapse of time, turn in desperation to drugs or an excessive use of alcohol, seeing no better solution to their problems. These men are thus poor citizens and in the end become a real burden to their new country.

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### Two legal remedies

The situation arising from the abandonment of the family by an immigrant while the latter enjoys virtual immunity by reason of his movement to another country, has always called for a solution and, with the increased migration of individuals in this post-war period, it has become a serious social problem. The situation is aggravated by circumstances like the restrictions imposed in a number of countries on the transfer of funds which often make it difficult for immigrants to transfer money to their families abroad.

An abandoned family seeking to effect recovery of its claim for maintenance obligations had, until recently, only two recourses open to it, neither of them satisfactory.

Firstly, the abandoned wife could apply to the court in the country in which the immigrant resides. Aside from cases where the immigrant changes his residence from country to country, and the situations in countries like Canada and the United States where the address of the immigrant cannot be revealed without his permission, she is confronted by almost insurmountable obstacles of a financial nature. A foreigner or a person residing abroad is permitted to sue if he deposits security for cost (*cautio judicatum solvi*). In some cases, the court may, in accordance with its rules of procedure, require the wife to appear personally. Furthermore, it is necessary for an abandoned wife to retain a lawyer in a foreign country and to bear the high cost of litigation. Very often there is the question of evidence which can only be taken where the wife is residing and which is impossible to present to a court abroad. Besides all this, there is always the language problem and the necessity to trans-

late all documents, which naturally involves expenses. Thus, the whole procedure is very costly and this usually deters the claimant from pursuing action.

Secondly, the abandoned wife may sue the breadwinner in the emigration country for a maintenance order and then apply for its enforcement in the immigration country. But the legal effect of foreign judgments is not accepted in many countries. In some cases also, the judge is not empowered to pass a sentence on a debtor residing in another country.<sup>1</sup>

Normally the courts admit action only in case of due obligations and are not concerned with future obligations.<sup>2</sup>

Furthermore, concepts on foreign judgments vary in the different countries. For instance, Argentina and Brazil exercise a limited control over such judgments which can be rejected on certain conditions. Some countries, like Switzerland, exercise absolute control over foreign judgments and in Belgium or France, foreign judgments may be accepted or rejected by a judge. The latter has in this respect a right to refuse the execution of a foreign judgment if a legal point or a factual situation has been wrongly considered.<sup>3</sup>

<sup>1</sup> See Contini, *International Enforcement of Maintenance Obligations*, 41 CALIF. L. REV. 106 (1959).

<sup>2</sup> See Report to the Ottawa Congress (1960), by Dr. Burian (Germany), in which the author stresses that in some countries the authorities require the legal settlement of obligations *prior* to emigration. The number of children an emigrant has can be ascertained from application forms. He is then asked to show that he has arranged the financial settlement of these obligations *before* departure. But in some cases, candidates for emigration conceal their family situation.

<sup>3</sup> See KRAMER-BACH, L'EXECUTION DES OBLIGATIONS ALIMENTAIRES SUR LE PLAN INTERNATIONAL 4, 5.

It has been stated that in Anglo-Saxon countries, the judge has very wide powers and in many cases bases his decisions on oral evidence. In France, on the contrary, the judge is rarely an officer of the judicial police and does not often proceed by interrogatories and research. Rather, he bases his conclusions in general upon written evidence and written procedure.<sup>4</sup>

### Need for international action

Because of the above differences and obstacles in national legislations and as a result of the fact that in all cases the plaintiff and defendant live in different countries, the problem of securing support for the family left behind, has long since called for international action. It was necessary to seek legal means which would make it easier for dependents to obtain support from a breadwinner abroad.

There are, generally speaking, two legal systems in the world: *civil law countries*, chiefly in continental Europe and Latin America, and *common law countries*, as in all Anglo-Saxon countries, including the United Kingdom, Canada and the United States.

In the matter of maintenance, the countries of emigration, where the complaints originate, are chiefly civil law countries, whereas the countries of immigration, *i.e.*, the countries in which the potential defendants live, are chiefly common law countries.

The difficulty consists in the fact that civil law countries permit the execution of foreign judgment (*the exequatur procedure*) and the common law countries do not. Thus a judgment rendered in the country where the plaintiff is resident is

not binding upon the courts of the defendant's resident country and contrary to the established legal principles.<sup>5</sup> In Great Britain and the Commonwealth, a different system of registration procedure is known.<sup>6</sup> As to the legal system of the United States, the Federal Judicial Code (Art. 1943) excludes the enforcement of judgments rendered in other districts of the country as far as alimentary obligations are concerned, because the questions of the family statute belong to the particular jurisdiction of each State. It would seem that the United States would prefer bilateral agreements to a multilateral convention. However, the existing *Uniform Support Laws* of 1949 and 1950 which have been adopted by many states of the United States among themselves, allowed the enforcement of judgments in alimentary actions through a special co-operation between the administrative and legal authorities of these States.

In view of this situation, the emphasis of future international action in this field was shifted from the simple enforcement of foreign order for maintenance to facilitating the granting of the order in the country of immigration. This was done through a method of obtaining a support order in the defendant's country rather than enforcing abroad a support order rendered in the plaintiff's country. In this case the proceedings would be governed by the law of the tribunal (*lex fori*) and the support order issued by the tribunal would be enforceable

<sup>5</sup> See Contini, *supra* note 1, in which he states that the United States has raised the objection that a judgment rendered in a foreign country against a person who was neither a citizen nor a domiciliary of such country, would not be recognized as valid.

<sup>6</sup> See Maintenance Orders Act of 1930, Foreign Judgments Reciprocal Enforcement Act of 1933, Maintenance Orders Act of 1950.

<sup>4</sup> *Id.* at 11.

in the same manner as if the plaintiff was a resident of the country in which the defendant lives.

After intensive and long preparation work made by the United Nations in cooperation with the International Institute for the Unification of Private Law, in Rome, and the Hague Conference on Private International Law, the Hague, such an international agreement exists today. It is the multilateral *Convention on the recovery abroad of maintenance* adopted in New York on June 20, 1956.

Besides this, there exists a second convention entitled *Convention on the recognition and enforcement of orders on maintenance allowances for children* which has been open for signature since April 15, 1958, and which concerns especially the civil law countries in Europe and could be used for the purpose of improving existing procedures for the enforcement abroad of family support orders within Europe. In view of its territorial scope, this convention was recommended for signature by the Council of Europe.

These two conventions facilitate the recovery of existing family obligations, but whereas the 1956 Convention refers chiefly to *overseas migration* and covers two different legal systems, the Convention of 1958 concerns above all *intra-European migration*.

### I. Convention on recovery of maintenance

The main outlines of this Convention provide for close co-operation between the authorities of the two countries concerned, whereby proceedings may be initiated in one country and continued before a court in the second and it is possible for the two authorities to assist each other in the course

of proceedings, particularly as regards the carrying out of enquiries.<sup>7</sup>

The Convention is based on the system of the United States uniform laws. The provisions involving a change in the procedure of the various countries are reduced to a minimum. States are also left free to make their own choice of the organizations responsible for carrying out the functions provided for by the Convention.

The Convention avoids the duplication of legal suits in the two countries involved. It adopts four stages of procedure:

1) the extra-judiciary preliminary stage in the emigration country during which the files are prepared and the claim formulated. It may include a summary hearing in the country where the claimant is living, the findings of which may be used by the court in the immigration country where the action is begun;

2) the transmission of documents and evidence to the agency in the other country which is entitled to institute an action for maintenance (this is done directly, with the exclusion of diplomatic and consular channels to avoid loss of time);

3) the legal prosecution in the courts of the immigration country by the above agency on behalf of the plaintiff;

4) transfer of funds payable on account of maintenance obligations.

The above procedure is carried out by two organs: (a) an agency in the plaintiff's country (emigration country) called the "Transmitting agency" which will deal with points 1) and 2), and (b) an agency in the defendant's country (immigration country) which will deal with point 3), *i.e.*, prosecute the action on behalf of the plaintiff.

<sup>7</sup> See official records of ECOSOC, Seventeenth Session, New York, 1954.

Let us look at some details of this procedure.

*Parties to the claim for maintenance*

The parties to the claim for maintenance are designated in the Convention as "claimant" and "respondent" respectively.

The "claimant" is the person who claims to be entitled to maintenance from another person. It can be an ascendant, descendant, spouse or other person related by operation of law. Claimants can thus include illegitimate children, which is in line with provisions already included in some national legislations; in some Scandinavian countries for instance, alimentary obligations are accorded without any restrictions even if relationship is not established. In Switzerland, brothers can benefit under Swiss law from alimentary allowances in certain cases.

The "respondent" is the person from whom maintenance is claimed. He has to be subject to the jurisdiction of the other contracting party. Thus the criteria adopted by the Convention for the claimant are broader than that applicable to the respondent. Whilst residence or mere presence is considered sufficient for the claimant, with regard to the respondent, the Convention prescribes that the rules of the *lex fori* relating to jurisdiction will apply.

The remedies provided for in the Convention are in addition to and not in substitution for any remedies already available under municipal or international law.

*Organs for the execution of the procedure*

The agency responsible for assisting the claimant at the preparatory stage is designated the "Transmitting agency" (French: *Autorité expéditrice*). Each country is free to decide whether this agency shall be

judicial or administrative and to appoint several Transmitting agencies. The agency which acts in the immigration country, where the respondent is living, is called the "Receiving agency" (French: *Institution intermédiaire*). The country may designate as such an agency a public or private body. This agency is empowered to initiate legal proceedings on behalf of the claimant. A noteworthy innovation has been made in the provision empowering Transmitting and Receiving agencies in different countries to correspond directly with one another, which will surely avoid bureaucratic delays.

Articles 3 and 5 of the Convention lay down a special procedure to be followed in the emigration country which serves as the preparatory stage of proceedings in the immigration country. This stage begins with the submission of the claimant's application. The Convention does not require a summons to be served on the respondent, because in many cases that would be impracticable or without effect. Furthermore, the functions of the Transmitting agency do not form part of the judicial proceedings to be subsequently commenced.

The application shall be accompanied by the relevant documents including the power of attorney authorising the Receiving agency to act on behalf of the claimant. It shall also be accompanied by the photograph of the claimant, and, where possible, a photograph of the respondent. The Transmitting agency takes all reasonable steps to ensure that all the requirements of the laws of the State of the Receiving agency are complied with, and in particular, the application shall include the name, address, date of birth, nationality and occupation of the claimant, name of the respondent and as far as known, his address during the preceding

five years, date of birth, nationality and occupation, and finally, particulars of the grounds on which the claim is based and the relief sought. Other relevant information such as financial and family circumstances of the claimant and the respondent should be added.

These documents shall be transmitted to the Receiving agency in the immigration country and the Transmitting agency may express to the Receiving agency an opinion on the merits of the case and may recommend that free legal aid and exemption from costs be given to the claimant.

The Transmitting agency shall also transmit, on the request of the claimant, any order and any other judicial aid obtained by the claimant for the payment of maintenance under a competent tribunal.

#### *Legal proceedings against the respondent*

Legal proceedings begin in the country within whose jurisdiction the respondent is present. On receipt of the papers the Receiving agency of that country is required to begin proceedings against the respondent including a statement of the claim and prosecution of the claim for maintenance (Art. 6).

The initiation of proceedings at the instance of the Receiving agencies constitutes one of the newest aspects of the Convention. It makes it possible to proceed against the respondent in accordance with the normal rules of procedure and at the same time enables the claimant to avoid the difficulties of finding a lawyer or appearing in person before a foreign court.

The law applicable in the determination of the questions arising in any such actions or proceedings is the law of the State of the respondent. If this law allows it, the exequatur procedure may also be followed (Art. 5).

The Receiving agency shall notify the Transmitting agency currently involved. It is in order to expedite such taking of evidence that the Convention provides in Article 7 for letters of request (commissions rogatoires) where such procedure is recommended by the law of the two States concerned. These letters of request shall be executed with all convenient speed. Here too a considerable saving of time has been achieved by the direct transmission of documents between the court and the requisite authority as well as by the fixing of a time limit of four months for the execution of such letters of request.

The revision of judgments on alimentary allocations may also be made in accordance with the same procedure.

#### *Exemptions and facilities granted to claimants*

The Convention stresses that claimants shall be accorded equal terms and the same exemptions in the payment of costs and charges as are given to residents or nationals of the country where the proceedings are pending. Especially, claimants shall not be required to furnish any bond or make any payment or deposit as security for costs. The Transmitting and Receiving agencies shall not charge any fees in respect of services rendered under this Convention.

Another important facility is made by Article 10 on the transfer of funds, namely the provision that the country under whose law the transfer of funds abroad is restricted, shall grant highest priority to the transfer of funds payable as maintenance.

Finally, like all international conventions, the 1956 Convention includes a number of standard final clauses, among others the Federal clause (which reserves the independence of various States in a federal

country like the United States), denunciations and reservations.

As to the reciprocity, the Convention states that no country shall be entitled to avail itself of this Convention against other countries except to the extent that it is itself bound by the Convention.

*Countries which have ratified the Convention*

Obviously, the provisions of this Convention are applicable only between those countries which have ratified it.

Of the 32 countries which were represented at the U.N. Conference on Maintenance Obligations in New York in 1956, 18 have ratified the Convention to date.<sup>8</sup> This means that the recovery of maintenance is facilitated by the Convention only in the cases where the two parties are living in one of the eighteen countries enumerated below.

In *Europe* ten countries have ratified the Convention, namely: France, Germany, and Italy, three Scandinavian countries (Denmark, Norway and Sweden), three satellite countries (Czechoslovakia, Poland, Hungary) and Yugoslavia.

In *Asia* the Convention was ratified by Free China, Ceylon, Pakistan and Israel. In *Africa* only one country – Morocco – ratified it, and in the *Americas*, two Central American countries, Guatemala and Haiti, and recently Brazil.

If we study this list, we are at once struck by the fact that the majority of countries which have adopted the 1956

Convention are emigration countries. In fact only France and eventually Germany are immigration countries, chiefly for Italian migrant workers, besides the two small Central American countries and Brazil.

The big immigration countries like the United States of America, Canada, Australia, and the majority of the South American immigration countries are not among those on this list.

On the emigration side, it is unfortunate that several national groups of emigrants are not yet covered by the Convention, for example the Dutch, Spaniards, Portuguese, Maltese and Greeks.

According to the evaluation made by various international organisations, most of the cases now pending concern the United States, Canada and Australia as well as the Union of South Africa.

Alphabetical list of countries which have ratified or acceded to the 1956 Convention\*

A. EUROPE	<i>date</i>
Czechoslovakia . . . . .	October 3, 1958
Denmark . . . . .	June 22, 1959
France . . . . .	June 24, 1960
Germany (Fed. Rep.) . . . . .	July 20, 1959
Hungary . . . . .	July 23, 1957
Italy . . . . .	July 28, 1958
Norway . . . . .	October 25, 1957
Poland . . . . .	October 13, 1960
Sweden . . . . .	October 1, 1958
Yugoslavia . . . . .	May 29, 1959
B. OUTSIDE EUROPE	
Brazil . . . . .	November 14, 1960
Ceylon . . . . .	August 7, 1958
China (Taiwan) . . . . .	June 25, 1957
Guatemala . . . . .	April 25, 1957
Haiti . . . . .	February 12, 1958
Israel . . . . .	April 4, 1957
Morocco . . . . .	March 18, 1957
Pakistan . . . . .	July 14, 1959

\*This table was established from data received from the Legal Division of the U.N. Office of the High Commissioner of Refugees, under the date of December 1, 1960.

<sup>8</sup> Another question is the signature of the Convention by a country. This Convention was open for signature until December 31, 1956, and 26 countries signed. New countries may accede to the Convention (accession procedure). The Convention came into force on May 25, 1957 (one month after the deposit of the third ratification).

In view of the ratification of this Convention by three satellite countries, it is interesting to note that Sweden made the following reservation to the ratification:

Sweden reserves the right to reject, where the circumstances of the case under consideration appear to make this necessary, any application for legal support aimed at the recovery of maintenance from a person who entered Sweden as a *political refugee*.

Where the proceedings are pending in Sweden, the extensions in the payment of costs and the facilities provided in Article 9, paragraphs 1 and 2, shall be granted only to nationals of or *stateless persons* residing in another State party to this Convention or to any person under an agreement concluded with the State of which he is a national.

It is not difficult to imagine that in some cases of political refugees and escapees, the Convention could be used by authorities in satellite countries as a means of pressure against them. In the light of present ratifications, political refugees from Poland, Czechoslovakia or Hungary could be sued in France, Italy or Germany. It remains to be seen whether the Convention will be misused for these purposes or fulfil its real intention of protecting the abandoned family.

It is also interesting to note that Israel made two reservations to the Convention. The first concerns Article 5: the Transmitting agency shall transmit under paragraph 1 any order, final or provisional, and any other judicial act, obtained by the claimant for the payment of maintenance in a

competent tribunal of Israel and, where necessary and possible, the record of the proceedings in which such order was made. The second reservation refers to Article 10: Israel reserves the right to prevent the transfers of funds for purposes other than the bona fide payment of existing maintenance obligations, as well as to limit the amounts transferable to amounts necessary for subsistence.

*Designation of competent authorities in various countries*

According to the terms of the Convention, each State which ratified or acceded to the Convention should designate:

- a) one or several juridical or administrative authorities which shall act in its territory as Transmitting agency;
- b) a public or private body which shall act as Receiving agency.

In some cases countries have chosen identical organizations as Transmitting and Receiving agencies (Italy, Denmark, Norway, Sweden, Morocco, Ceylon, Guatemala and Czechoslovakia). In other cases, these agencies are different.

As to forthcoming ratifications, according to information from the International Social Service Headquarters in Geneva, the Netherlands is preparing to ratify the Convention and the Council for Children's Protection in Amsterdam or the Hague will act as Transmitting and Receiving agencies.

Here is a list of Transmitting and Receiving agencies in some countries:

Country	Transmitting agency	Receiving agency
France . . . . .	Les parquets, <i>i.e.</i> , public prosecutors (in the districts where the abandoned family lives)	Ministère des affaires étrangères. Contentieux des affaires étrangères (23, rue de la Pérouse, Paris-16e, Mme Sauteraud).
Germany . . . . .	Ministries of Justice in various Länder*	Federal Ministry of Justice, Bonn.
Italy . . . . .	Ministry of Interior or Foreign Ministry	Ministry of Interior.
Scandinavian countries . . . . .	Ministry of Foreign Affairs	Ministry of Foreign Affairs.
Israel . . . . .	Legal Aid Bureaux, Jerusalem, Tel Aviv and Haifa	Legal Aid Bureau, Jerusalem.
Haiti . . . . .	Legal Dept. of Foreign Ministry, Gov. Commissioner at the Court of Appeal	Department of Justice, through Foreign Ministry.
Guatemala . . . . .	Procurador General de la Nación	Procurador General de la Nación.
China (Taiwan) . . . . .	Ministry of Justice, Taipei, Taiwan	Bar Assn. of the Republic of China, Taipei, Taiwan.
Poland . . . . .	County Courts (sady wojewodzkie)	Ministry of Justice.

\*These Ministries are in Berlin – Schönberg, Munich, Mainz, Stuttgart, Wiesbaden, Bremen, Hamburg, Hanover, Düsseldorf, Kiel and Saarbrücken.

## II. 1958 Convention on enforcement of maintenance orders

Unlike the first convention which refers to legal action between common law countries and which is based upon *ex officio* collaboration between countries, the 1958 Convention concerns provisions for the enforcement by *exequatur* of foreign maintenance orders. It limits its scope to this matter only and seeks to devise a method for achieving simplified enforcement abroad of a maintenance order rendered in the claimant's country.

This Convention was submitted in January 1959, for consideration by the Consul-

tative Assembly of the Council of Europe, and in March 1959 its Legal Committee recommended that Member States of the Council of Europe should adopt and ratify it.<sup>9</sup>

### *Basic principles*

It should firstly be pointed out that the scope of this Convention is wider than that of the 1956 Convention as it extends

<sup>9</sup> This motion was a sequel to recommendation 179 of October 26, 1958, on the ratification of the general "Convention on maintenance allowances for children" called the "Convention on conflicts of law."

to both juridical and administrative decisions. By virtue of Article 1, this Convention aims at the recognition and enforcement of any order pursuant to claims for maintenance. This is possible because of the fact that in Austria and in Scandinavian countries, the administration authorities may deal with maintenance claims. On the other hand, it concerns only the claims of legitimate, non-legitimate or adopted children, not married and being under 21 years of age. Besides, the Convention refers also to orders issued solely in accordance with the municipal law of the country of the court, because there was no international element in dispute.

#### *Conditions to obtain enforcement*

The only conditions to obtain enforcement are the following:

- (1) the deciding authority must be competent from the international point of view, *i.e.*, an authority in whose territory the person *liable for maintenance* was resident when the proceedings were instituted; authorities in whose territory the person *entitled to maintenance* was resident and thirdly, the authority to whose jurisdiction the person liable has *submitted himself* either expressly or by arguing merits;
- (2) the defendant was duly summoned or represented;
- (3) the order has acquired force of "res judicata" in the country where it was made;
- (4) the order is not incompatible with an order made in the same matter;
- (5) the order is not manifestly incompatible with the "ordre public" of the

country (for instance, polygamy in France will not be considered as involving civil effects).

If these conditions are fulfilled the exequatur or registration should be granted. In the case of judgment by default, enforcement may be refused if the enforcing authority concludes that the person liable was unaware of the proceedings or was unable to defend himself through no fault of his own.

Orders for provisional enforcement should be declared enforceable if like orders may be made and enforced in the country to which such authority pertains.

#### *Other prescriptions of the Convention*

As to free legal aid, security for costs (*cautio judicatum solvi*) and transfer of funds, the same provisions as are in the 1956 Convention, are also granted in the 1958 Convention.

Any order declared enforceable shall have the same force and same effect as if it had been made by a competent authority of the State in which enforcement is sought.

The same prescriptions apply to any orders modifying a previous order for maintenance.

The Convention was open for signature to the following countries in Europe: Austria, Belgium, Denmark, Finland, France, Germany (Federal Republic), Greece, Italy, Ireland and Iceland, Luxemburg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey and the United Kingdom.

But up to date, this Convention has been ratified only by Austria. Consequently it has not come into force, but five countries are expected to ratify it in the near future; namely, Belgium, Germany, Greece, Italy and Norway. Besides, this Conven-

tion has been signed (but not ratified) by the Netherlands, while Luxemburg is studying the possibility of signing it. According to information received from the Council of Europe, Ireland and the United Kingdom do not intend to sign it.<sup>10</sup>

### III. Humanitarian aspects of the whole question

The social implications of the whole problem of recovery abroad of maintenance are obvious.

It is because of these implications that, since the first endeavours to settle this problem were made, the Holy See has taken an active interest in the question, and agreed to take part in the U.N. Conference on maintenance obligations, in New York, from May 19 to June 20, 1956, by appointing two eminent representatives, who were well-qualified to act in this matter: Bishop Edward E. Swanstrom and Bishop Aloysius J. Wycislo (then monsignors). The reason for this interest was given by Bishop Swanstrom in his speech to the Conference on June 7, 1956. He said:

The Holy See has long indicated its very deep concern for the welfare of those wives and children who find themselves in precarious plight by the failure of the husband and father to fulfill his legal and moral duty — his duty in both justice and charity — of support to his family upon taking up residence in another country.

<sup>10</sup> It is worthy of mention also that the following European countries are parties to the Hague Convention of 1905 relating to Civil procedure which contains provisions for obtaining evidence abroad by means of letters of request (commissions rogatoires): Austria, Belgium, Denmark, Germany, Hungary, France, Netherlands, Poland, Portugal, Sweden, and Switzerland. Besides, Austria and Italy signed the 1954 Hague Convention on Civil Procedure.

The Holy See has consistently emphasized the indissolubility of the marriage bond; it has emphasized both the spiritual and material obligation of the union.

The family is the basic unit of society — anything that disrupts this unit and exposes it to spiritual and even material harm is the deep concern of the Holy See.

During recent years, this concern of the Holy See has been magnified by the number of families that have been rudely torn apart as a result of the recent world cataclysm and the events that followed. The Holy See gave additional expression of this concern when it signed the Convention for Refugees and the Convention for Stateless persons, the first of which it ratified.

Along with this concern of the Holy See, the non-Governmental Organizations took a vital interest in this matter.

The International Social Service must be especially thanked for its efforts to help those attempting to seek maintenance from relatives living abroad. Statements have been made in this respect (during the preparation of the Convention) by Mr. W. T. Kirk and Miss D. Dodds, from the International Social Service, on various occasions such as the Conference of Non-Governmental Organizations interested in migration and then, in their name, before governmental bodies. In one of these statements it is said:

We submit that the existence of international machinery for the enforcement of maintenance obligations would have effect without the necessity of taking court action in every case. Some men will be deterred from deliberately migrating across national boundaries, if they know that they will not, by so doing, escape from their legal responsibilities in the country they have left. We submit further that some men will prefer to send regular support rather than to be forced to do so by court order and that in this respect the efforts of social work

agencies to secure "voluntary" support for families will be aided by the fact that compulsion is possible.

We submit also that a man who has gone to establish himself in a new country will be a better citizen of that country when he knows that its institutions require of him responsible behaviour towards his dependents wherever they live, and that migration has not freed him from the obligation to support his family.

Numerous also were the Catholic organizations which took an active part in the preparation of the Convention. The International Conference of Catholic Charities took part in the Conference on maintenance obligations, through its Secretary General, the Rt. Rev. Msgr. John O'Grady. A vast amount of work was also done by the late Miss J. de Romer of the Center of International Catholic Organizations during preparation work in Geneva.

With the recent establishment of the International Center for Co-ordination of Legal Aid, within the framework of the Conference of NGO's interested in migration Geneva, and under the chairmanship of Dr. Henri Coursier, it is hoped that the matter of recovery of maintenance will also be facilitated through mutual contacts between non-Governmental organizations. In fact, the International Center of Coordination inscribed in its functions improvement of existing legal facilities and encouragement of cooperation between existing agencies extending legal aid services or interested in such services.

And last, but not least, the endeavours of the International Catholic Migration Commission deserve a mention here. At the 1956 Conference, the I.C.M.C. was

represented by Miss Irene Dalgiewicz and Mrs. Margaret Littke. It may also be recalled that as early as 1957, the International Catholic Migration Congress at Assisi recommended that all national Catholic Organizations interested in the matter "demand from their governments the ratification of the U.N. Convention on maintenance obligations."

#### **What remains to be done**

This appeal of the I.C.M.C. Congress in 1957 can only be reiterated today.

In view of the fact that only eighteen countries have ratified the first Convention and only one country, the second, much still remains to be done. The absence of legal facilities for recovery of maintenance in big immigration countries is still the cause of much hardship. The arguments invoked by some countries do not seem entirely valid, as the negotiation of bilateral arrangements would involve every country in a large number of agreements each of which would be bound to differ in points of detail.

Therefore, governments must be approached anew by all those organizations which share the concern for the protection of abandoned women and children.

Each particular organisation interested in the matter should recommend whatever action they deem appropriate to the national government. A new and important step forward would be achieved if the big immigration countries could be convinced that they should ratify the Convention and thus contribute to the solution of this complex problem.