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Commentary

Freedom of Movement in Latin America

Daniel C. Turack*

Today, nationals of many member States of the Organization of American States no longer require a valid national passport to visit other member States. The present standards of freedom of movement emerged as a result of waiver of the passport requirement and the simplification of immigration procedures—the direct outcome of regional international assemblies held in this century, and unilateral measures as indirect consequences of the same meetings. It is now generally recognized by leaders of governments as well as the civil servants located in the higher echelons of their Government's administration that persons bent on engaging in subversive activities within their own State or other States are not going to be thwarted by any passport requirement or immigration procedure. Thus, the major reason for perpetuating stringent travel restrictions has been laid to rest.

The principal motivation for reducing barriers to travel has been and continues to be an economic one—income from tourism. Economic benefits derived from tourism have also made the member States of the OAS more receptive to the overtures of the Inter-American Commission on Human Rights in its program of expanding freedom of mobility.

In recent years, the dynamics of Latin American politics has given rise to increasing numbers of political refugees. With a view to alleviate the personal suffering of many of these persons, the OAS has also been investigating the possibility of making travel documents more readily available to permit those concerned to seek asylum in a State which will have them. We turn now to an examination of the genesis of these projects and the steps that have been taken in the regional movement towards freedom of mobility.

I. INTER-AMERICAN TRAVEL AND THE TRAVEL DOCUMENT

The Inter-American System which arrived upon the international scene in 1890 has been concerned periodically with the subject of pass-

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ports and travel documents in its endeavor to promote more travel among the American States. Prior to World War I, the passport was not always required by citizens of Latin American countries for inter-American travel.

For example, the Dominican Republic and Haiti signed a *Modus Vivendi* at Port-au-Prince on 20 May 1910, to discontinue the use of passports for travellers between their countries. An identity certificate issued by the competent authorities in the traveller's place of residence was a sufficient travel document for crossing into the neighboring State.

Although far removed from the scene of the First World War, the American nations remained cognizant of the movement of foreigners within their territory. After the war, an increase in emigration from Europe made the Latin American republics even more aware of the need to regulate the flow of human traffic so as not to add to an already expanding population. The rigid passport controls which had sprung up in Europe served as the prototype for Latin America.

During the Fifth International Conference of American States, held at Santiago, Chile, 23 March-3 May 1923, possible measures for simplification of passports and the adoption of a standard form of passport were considered. As a prelude to the Conference, the Committee on Communications examined closely the efforts of the 1920 Paris Conference on Passports, Customs Formalities and Through Tickets. The Committee found that the conditions which led to the Paris Conference were non-existent in the Western Hemisphere; consequently, the recommendations produced by that Conference could only be applicable in the Americas in exceptional instances. In the Americas, the role of the passport was seen by the Committee as occupying a dual function: it constituted an officially recognized identification document and it assisted in the control of immigration. Two situations were characterized: "the first, as regards traffic with Europe and the other continents; the second having relation to mutual transit of American travellers." On the first point, the Committee favored maintaining practices current in that day wherein, each State followed its own immigration policy and enforced its own immigration laws. In the second case, the

1. 103 British and Foreign State Papers 427 (1910).
2. Fifth Int'l Conf. Amer. States (Verbatim Record of the Plenary Sessions) Vol. I at 493 (1923). The conference was attended by representatives from Argentina, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Nicaragua, Panama, Paraguay, Salvador, United States of America, Uruguay and Venezuela.
Committee advocated adoption of measures to ensure unrestricted travel within the hemisphere through uniformity in the legal requirements regarding identification of persons. If identification procedures were uniform, a special type of passport could be established in each American country to assist and facilitate the travel of nationals of each such state throughout the Americas. Creation of this passport appeared feasible as the Committee report already disclosed a great similarity in State legislation and administrative regulations.

The Committee called for other reforms, among them: abolition of the visa in inter-American travel; uniform fees for passports issued specifically for travel on the South American continent; and the conclusion of bilateral agreements to promote continental travel. During the sessions, it was also announced that Uruguay and Argentina had recently concluded an agreement enabling all federal, national and municipal officials of each country, and their families, to travel freely in the other Party's territory without passports if they possessed a certificate of identity issued by the Head of the office where such officials were assigned. Lastly, the Committee report proposed a draft resolution on the Uniformity of Passports which was accepted by the Conference. It read:

The Fifth International Conference of American States, Resolves:
1. That it is desirable to establish at as early a date as possible, a uniform type of passport, as simple and as portable as possible, for the use of persons travelling between the American nations;
2. That the minimizing or early suppression of consular visés and the abolition of passports and other restrictions which interfere with free intercourse between nations is advisable; provided that the holders be citizens or nationals of American States and that they travel from one American country to another;
3. It is desirable that a uniform fee in gold be established for the issuance of passports in all the American States;
4. Although the American nations may reserve to themselves the right of exacting a passport if they consider it advisable, it is desirable that adjoining nations should enter into administrative agreements by virtue of which a simple certificate of identity issued by the competent authorities of each such States, may serve as a passport for travel between such States.

3. The Conference had in mind the bilateral agreement between Uruguay and Argentina.
5. *Id.* at 496-97. This proposal was formally adopted at the 12th session of the conference on 1 May 1923.
In the Third Pan American Commercial Conference called by the Governing Board of the Pan American Union to meet in Washington, 2-5 May 1927, the recommendation was made to all American countries that in a general co-operative endeavor to suppress commercial barriers, it was desirable to eliminate the requirement of obtaining passports for going to other American republics.6

The Seventh International Conference of American States which met at Montevideo, Uruguay, 3-26 December 1933, explored the promotion of tourist travel and chose to reflect its consensus in Resolution XLII on the topic.7 Proposals called for the elimination of existing vexatious requirements and obstructions in the matter of passports and visas, the conclusion of bilateral agreements and conventions, and unilateral administrative measures to reduce red tape and excessive costs to which the tourist was exposed. A tourist was defined as "any national or any foreigner living in one country of the Continent [South America] who enters the territory of another without intention of remaining there and with the sole purpose of visiting it and enjoying its advantages and pleasures." Most significant was the proposal providing for the creation of a "Tourist Passport," to be issued and visaed gratis, with an initial validity of three months and renewable for similar durations up to one year. An applicant for the Tourist Passport carried the onus of proving to the issuing authorities that he came within the definition of tourist.

As safeguards, the Conference recommended that persons tried or convicted of any common offense, or whose social or political views might be undesirable in other countries would have no right to the Tourist Passport. Proven false customs declarations or violation of any of the conditions for obtaining the Tourist Passport would result in the refusal of future applications from such persons. When the irregularity was proven the Tourist Passport would be withdrawn.

During the Conference, the United States delegation announced that President Roosevelt was prepared to amend the existing Executive Order so as to waive passport and visa formalities in the case of prop-

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7. U.S. Dep’t of State: Conf. Series, No. 19, at 248-49. The States represented at the Seventh International Conference of American States were: Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, United States of America, Uruguay and Venezuela.
erly identified citizens coming to the United States as tourists or as temporary visitors for business or pleasure.8

Before the end of the year, Brazil and Uruguay concluded a bilateral agreement to facilitate tourist traffic between their States.9 The next important step was taken at the Pan American Commercial Conference which was called by the Government of Argentina to meet in Buenos Aires, 26 May-19 June 1935.10 A Convention on the Creation of a Pan American Tourist Passport and of a Transit Passport for Vehicles11 was adopted by the Conference wherein it elaborated upon the definition of "tourist" by ascribing certain characteristics to the term to be incorporated into national laws. A "tourist" had to be a resident of one of the member countries of the Pan American Union, and maintain the intention of remaining resident in that State. Furthermore, the purpose of the trip had to be associated with pleasure, intellectual pursuit, study, business, health or other comparable activity without having the direct objective of seeking to support oneself in the country visited. Also, the sojourn was always to be of limited duration.

Signatory countries to the Convention were obliged to create and utilize the Pan American Tourist Passport. It would be recognized and accepted as a valid travel document by all the signatory countries in either of two forms: as an individual passport, or as a collective passport. Individual passports were to be issued to persons who would travel alone or would be accompanied by members of their families. The collective passport would be issued to groups of persons who undertook to follow their itinerary without separating.

Each State was at liberty to issue the Pan American Tourist Passport to its native-born or naturalized citizens, or to the native-born or

10. Governments represented at the Conference were: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, the United States of America, Uruguay and Venezuela.
11. 8 INTERNATIONAL LEGISLATION; A COLLECTION OF THE TEXTS OF MULTIPARTITE INTERNATIONAL INSTRUMENTS OF GENERAL INTEREST, BEGINNING WITH THE COVENANT OF THE LEAGUE OF NATIONS 109, 1935-1937 (M. O. Hudson ed. 1941). The Convention was signed on behalf of the following States: Argentina, Bolivia, Brazil, Colombia, Costa Rica, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Uruguay and Venezuela. See U.S. DEP'T OF STATE: CONF. SERIES, No. 22. In January of 1941 the Convention was signed by or on behalf of Chile, the Dominican Republic, Ecuador and Peru. Only Cuba and the United States did not sign the Convention.
naturalized citizens of other signatory States if the issuing authorities were satisfied as to the economic solvency and moral character of the person concerned. These passports were to be issued gratis, and had to contain a notation concerning the documents used in establishing the identity of the bearer. As a precautionary measure designed to ensure the departure of bearers of the Pan American Tourist Passport, the Convention recognized the right of each country to retain the passport until its bearer decided to leave, by exchanging it for a certificate that would enable the bearer to prove his identity or to fulfill other purposes of the passport while in the visited state.\textsuperscript{12}

Holders of the Pan American Tourist Passport were to be accorded certain facilities with respect to their vehicles, to be used during the trip. Consequently, the passport was divided into two parts: the first relating to the person, the second to the vehicle of the tourist. One of the functions of this passport was to offer protection to the vehicle accompanying the tourist during his sojourn. "Vehicle" could include bicycle, motorcycle, automobile and airplane. Possession of this passport would entitle its holder to request permission of the respective authorities to use the vehicle in accordance with local regulations.

In addition to adopting four Conventions, the Pan American Commercial Conference also adopted a number of recommendations, resolutions and declarations. On the subject of passports, the Conference recommended that the member countries of the Pan American Union amend their laws and regulations to make the design of their national passports similar to the Pan American Tourist Passport for persons, national passports should include particulars about minors who travel with the head of the family, that collective passports be introduced for groups of travellers, and that the fees for the issuance of passports be reduced to cover only the cost of their administration.\textsuperscript{13}

There was little response from the Latin American republics in ratifying the 1935 Convention. In order to precipitate action in this respect the Inter-American Conference for the Maintenance of Peace meeting in Buenos Aires, 1-23 December 1936, adopted a Resolution requesting the nations to ratify the 1935 Convention.\textsuperscript{14}

\textsuperscript{12} Because this provision was directly contrary to avowed American policy, it probably more than any other factor determined the U.S. attitude toward the Convention.

\textsuperscript{13} Approved by the Conference on 15 June 1935. U.S. DEP'T OF STATES CONF. SERIES, No. 22, Appendix 44, at 134.

\textsuperscript{14} Ratification of the Conventions of the Pan American Commercial Conference of Buenos Aires, Res. 39, INT'L CONF. AMER. STATES 1st Supp. 1933-1940, at 169 (1940). To date only Paraguay and Uruguay have ratified the Convention.
The Inter-American Technical Aviation Conference held at Lima, Peru, 16-23 September 1937, also recommended the adoption of a Pan American Tourist Passport.\textsuperscript{15}

Minimal progress in developing inter-American tourist travel was recognized by the Eighth International Conference of American States convened at Lima, 9-27 December 1938.\textsuperscript{16} Once again, the Conference adopted a Resolution recommending: (1) that the Member Governments of the Pan American Union consider the reduction or elimination of existing passport and immigration requirements which acted as a barrier to tourist travel and, (2) that they conclude bilateral agreements or inaugurate other measures to facilitate the transit of tourists.\textsuperscript{17} Earlier in 1938, Argentina and Chile exchanged Notes at Buenos Aires constituting an Agreement on Travel Facilities which took into account the recommendations of the 1935 Conference.\textsuperscript{18}

In 1939, under the joint auspices of the Pan American Union and the Golden Gate International Exposition, the First Inter-American Travel Congress was held at San Francisco, 14-21 April.\textsuperscript{19} The Congress recognized that the passport and immigration regulations of some countries actually deterred inter-American travel. On the other hand some Latin American countries had simplified their procedures by introducing a Tourist Card which proved satisfactory from the standpoint of facilitating the entry and departure of travellers, and at the same time was sufficient to maintain proper immigration control over non-tourist, alien residents. The Congress adopted a Resolution on

\textsuperscript{15} Countries represented at the Inter-American Technical Aviation Conference were Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Panama, Peru, U.S.A., Uruguay and Venezuela. The Final Act of the Conference may be found in the First Inter-American Radio Conference: Documents of the Conference, General Secretariat, Vol. II, 1 November-13 December 1937. For a report on the work of the Inter-American Technical Conference see, [1937] 5 The American Republics, Foreign Relations of the United States 209-11.

\textsuperscript{16} Representatives from Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, El Salvador, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, United States of America, Uruguay and Venezuela attended.

\textsuperscript{17} Resolution LVIII, Eighth International Conference of American States, Final Act, at 73 (1938); U.S. DEP'T OF STATE: CONF. SERIES No. 50, at 155-56.

\textsuperscript{18} The exchange of Notes took place on 22 February 1938, and Argentina proclaimed the Agreement to be operative on the same date. 1938 BOLETIN OFFICIAL BUENOS AIRES 5314. The Agreement was subsequently replaced by an Agreement on Transit of Travellers signed on 27 November 1944 and ratified by Argentina on 30 December 1944. 1945 REV. ARG. DE DER INTERNAE, Buenos Aires at 71-73. The text of the Agreement may also be found here.

\textsuperscript{19} All American States and Canada, except Haiti and Honduras, were officially represented. For a very general statement on the results of the Congress see, Tercero, First Inter-American Tourist Congress, Its Practical Results 73 PAN AMER. BULL., 473 (1939). A brief account of the Congress can be found in U.S. DEP'T OF STATE: CONF. SERIES, No. 45, at 69-70.
simplification of passport and immigration regulations\textsuperscript{20} in which it recommended that the Member States of the Pan American Union ratify the Pan American Tourist Passport Convention of 1935. Pending ratification, Pan American nations and Canada were invited to introduce a simple uniform tourist card along the model of that created by Mexico. It was also suggested that the Pan American Union might draft the form of the card to be used.

At the time of the approval of the Congress Resolution, the United States delegation made a Declaration\textsuperscript{21} wherein it expressed that it was unable to recommend to its Government compliance with the Resolution. The Declaration announced that the United States Government was prepared to negotiate bilateral agreements to facilitate the transit of tourists, to suppress visas and visa fees, the requirement of passports and other formalities.

The dark clouds which had hung over Europe for so many years finally erupted into the Second World War. During the early summer of 1940, the German armies overran the neutral States of Norway, Holland and Belgium; France lay defeated, and England appeared ripe for invasion. It became evident to the American Republics that there was an immediate possibility of German annexation of its enemies' colonies in the Americas. In order to discuss this matter and others in relation to the war, the Second Meeting of Ministers of Foreign Affairs of the American Republics met at Havana, Cuba, 21-30 July 1940. The movement for liberalization of national passport regulations, a Pan American Tourist Passport and the Tourist Card came to a standstill. A warning note was sounded by the Meeting in its Resolution\textsuperscript{22} which recommended that the Governments of the American Republics take greater precautions in issuing passports. It also advocated the introduction of uniform punitive measures against the use of counterfeit or altered passports or persons having passports of more than one country. Indirectly, the Meeting defined the passport as "essentially an identification document which accredits in foreign countries the holder thereof as a national of the country which issues it; such document has an eminently international character, in as much

\textsuperscript{20} This document was supplied by way of a photostatic copy through the courtesy of Dr. Manuel Canyes, Deputy Director, Dept. of Legal Affairs, Pan American Union, OAS.

\textsuperscript{21} Ibid. This was printed immediately following the Resolution.

\textsuperscript{22} Resolution V, "Precautionary Measures with Reference to the Issuance of Passports," 3 Dep't State Bull. at 131-32, (1940); U.S. DEP'T OF STATE: CONFERENCE SERIES, No. 48, at 63-64.
as its possessor uses it solely as a document of identification outside the territory of his country of origin or adoption."\textsuperscript{23}

While the beginning of the war caused the American nations to curtail travel to Europe, tourist travel within the Western Hemisphere was still a topic of interest. The Inter-American Maritime Conference,\textsuperscript{24} held at Washington, 25 November-2 December 1940, discussed current opportunities and means of realizing tourist travel between nations of the hemisphere. The Conference adopted a Resolution calling for studies of inter-American tourist travel to be continued and in particular special consideration be given to "the standardization of Consular requirements and fees for passport visas and tourist cards."\textsuperscript{25}

A bilateral Agreement on Tourist Travel was signed between Argentina and Bolivia at Buenos Aires on 10 February 1941.\textsuperscript{26} In the next few years a number of bilateral agreements were concluded between the Latin American republics and a greater mobility for their nationals was created. Perhaps this increase in co-operation was a consequence of the Second Inter-American Travel Congress\textsuperscript{27} which met at Mexico City during the period 15-24 September 1941. The Congress resolved that on account of the war, and until a multilateral convention was concluded, "the various Governments of this Continent shall conclude bilateral agreements for the adoption at the earliest possible date, as guarantee and sole passport for the tourist of a card of uniform features to facilitate their transit on the Continent."\textsuperscript{28} The Congress envisaged the ultimate creation of a vast single travel area in the Americas. With respect to the bilateral co-operation, Colombia and Venezuela signed an Agreement at Caracas, on 5 August 1942 for the Regulation of the Frontier Transit of Nationals of each country.\textsuperscript{29} Brazil and Paraguay signed a Convention at Rio de Janeiro on 10 May 1943, for the Promotion of Tourist Traffic and Granting of Entry

\textsuperscript{23} Id.
\textsuperscript{24} Delegates of the 21 American Republics as well as representatives from various government departments, agencies and steamship companies.
\textsuperscript{26} Text of the Agreement is in 1941 Rev. Arg. de Der Internae, Buenos Aires at 141. Argentina approved the Agreement on 28 February 1941.
\textsuperscript{27} Representatives of the 21 American member countries, Canada and non-governmental organizations and agencies attended the Congress. For a brief account of the work of the Second Inter-American Travel Congress see, U.S. DEP'T OF STATE: CONF. SERIES, No. 81, at 10-13.
\textsuperscript{28} Second Inter-American Travel Congress, Final Act, CONG. AND CONF. SERIES No. 41, at 22.
\textsuperscript{29} The text of the Agreement is found in March 1943 DIARIO OFICIAL, Bogotá at 915-18. Ratifications were exchanged at Bogotá on 22 February 1944.
Facilities to Nationals of either country. On 31 August 1943, representatives of Chile and Uruguay signed a Convention on Travel and Tourism at Montevideo to facilitate travel between their countries for their nationals. Also in 1943, Bolivia and Brazil concluded an Agreement at Rio de Janeiro on Tourist Traffic and granting of entry facilities to nationals of either country. Lastly, on 4 and 6 October 1944, Colombia and Ecuador exchanged Notes at Quito constituting an Agreement on Facilitating the Transit of Nationals.

In accordance with the Declaration of Reciprocal Assistance and Cooperation for the Defense of the Nations of the Americas, the Third Meeting of Ministers of Foreign Affairs of the American Republics was convened at Rio de Janeiro during 15-28 January 1942. The Meeting reaffirmed the determination of the American Republics to prevent subversive activities through the strict enforcement of the precautionary passport measures.

During the war the control exercised over travel in the Western Hemisphere was tightened with little encouragement for the removal of restrictions. Most of the American Republics instituted temporary war legislation to curtail their citizens from travelling and introduced rigid passport-control regulations. The end of hostilities, however, saw the expected gradual removal of the emergency passport-control regulations. In the United States, for example, the Secretary of State amended the regulations on 28 August 1945 to enable Americans to travel to any country or territory in North, Central and South America or adjacent islands without carrying an American passport. However, he pointed out that legislation in other countries in the hemisphere had not been amended, thus requiring American citizens to possess a valid passport for entry to or departure from their territories. Some countries did not require passports from citizens of American Republics who were temporary visitors. Guatemala, for example, issued tourist cards through its consular officers to tourists instead of requir-

30. The text of the Convention is found in 1943 Bol. do Min. das Rel. Ext. at 328-29. Ratifications were exchanged at Asuncion on 20 August 1944.
31. The text of the Convention is found in 1943 Bol. do Min. das Rel. Ext. at 37-39.
32. See, July 1943 Bol. do Min. das Rel. Ext. at 406, 31 July 1943.
33. The text of the Agreement is found in 1944 Registro Official, Quinto at 1081-86.
34. The Declaration is found in 76 Pan American Union Bull. at 62 (1942).
35. For a summary of the results of the Third Meeting see, Rowe, The Third Meeting of Ministers of Foreign Affairs of the American Republics, 76 Pan Amer. Union Bull. at 181 (1942).
36. Resolution XVII, "Subversive Activities."
ing passports for temporary visits to the country. Bilateral agreements to facilitate travel were sought. On 15 June 1946, in Buenos Aires, Argentina and Peru concluded an Agreement on Transit of Tourists, thus allowing greater mobility of tourist traffic across their borders. Costa Rica and El Salvador signed a Modus Vivendi regarding exemption from passports on 15 September 1946 in the city of San Salvador. On 11 April 1947 at San José, Costa Rica and Guatemala signed a Modus Vivendi to establish a Central American Card of Migration in order to eliminate passports and visas. Brazil and Chile concluded an Agreement on Travel and Tourists at Rio de Janeiro on 4 July 1947.

In the period 4-9 August 1947, the First Inter-American Congress of Directors of Tourism and Immigration met in Panama to discuss the movement of travellers. Emphasis was placed on two items, bona fide tourist traffic and the adoption of an inter-American tourist card. A majority of delegates favored the substitution of an inter-American tourist card for the passport and visa required from bona fide tourists. The United States delegation indicated that their present regulations requiring the presentation of passports or recognized travel documents in lieu of passports for travellers to the United States could not be changed. They suggested that proposals meant to benefit the bona fide tourist be extended to include non-immigrant travellers who travelled on business pursuant to the recent approval given this principle by the 1947 Meeting of Experts on Passport and Frontier Formalities called by the United Nations. Also, the United States delegation favored the waiver of fees for the issuance of such tourist cards, on a reciprocal basis.

Such an extension was opposed by the majority of official delegates. The Congress approved certain recommendations which it presented

37. 13 DEP'T STATE BULL. at 339 (1945).
38. See 1946 LA NUEVA ECONOMICE, LIMA at 104.
40. The Text of the Modus Vivendi is found in 1947 LA GACETA 1286. Ratifications were exchanged at San José on 28 August 1944. Decree of June 30, 1954, concerning the suspension of the Modus Vivendi 1954, Costa Rica Executive Decree N. 4.
41. 1947 BRAZILIAN BUSINESS, 44-5 (August-September).
42. Delegates from 20 of the American Republics as well as observers from international organizations and various private organizations attended. Paraguay was not represented. For a brief discussion of the proceedings of the Congress, see Shaw, First Inter-American Congress of Directors of Tourism and Immigration, pt. 2., 17 DEP'T STATE BULL. 1250-51, (1947).
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through the Pan American Union to the various American Republics and Canada for adoption. These appear as follows:

1. That an inter-American tourist card be adopted immediately by the 21 American republics and the Dominion of Canada;
2. That the tourist card replace passports and visas and be issued for the exclusive use of bona fide tourists;
3. That the tourist card be issued by the governments concerned and their authorized agents;
4. That the tourist card issued by any nation be valid for travel in all the other American republics and the Dominion of Canada when such countries had adopted the proposed tourist-card system;
5. That countries adopting the card issue it solely to their own citizens;
6. That each country adopting the card admit into its territory the nationals of any other American country to whom a card had been issued, without additional requirements;
7. That each country issuing the tourist card guarantee the re-entry into its own territory of its own citizens to whom such card had been issued;
8. That the tourist card be issued upon certificates as to health, good conduct, economic solvency, and proof of nationality;
9. That the tourist card have a uniform format which was specified in the recommendation and which would satisfactorily identify the traveller as well as the issuing official and that the card be valid for six months, renewable for additional periods of the same length;
10. That a uniform tourist card be drawn up by the Pan American Union according to specifications set out in the resolution and presented to the various nations for adoption;
11. That the acceptance of a tourist card imply the obligation of the bearer to comply with the laws of the country he proposes to visit and not to intervene directly or indirectly in its internal politics;
12. That the right of American nations to celebrate bilateral or multilateral agreements giving greater facilities in transit and visit, and existing agreements giving greater advantages, not be invalidated;
13. That the interested nations sign and ratify a convention legalizing the use of the card in the shortest possible time.  

The Congress also advised that its recommendations be referred to the Third Pan American Travel Congress for their approval and reinforcement. A proposal calling for a second congress of directors

43. Id. at 1251. The United States signed the Final Act of the Congress but with a reservation indicating that it would not deviate from its established practice.
of Tourism and Immigration was defeated as the Inter-American Congress would discuss the problems raised.

By 1945 the American Republics found that the numerous inter-American agencies and institutions originally known as the "Union of the American Republics" and then as the "Inter-American System" needed to be reorganized, consolidated and streamlined to strengthen the system. However, the conference required to produce such a change was postponed due to the emergency meetings of the Foreign Ministers and the special conferences until 30 March 1948 when the Ninth International Conference of American States met at Bogotá. By the time the Conference concluded on May 2nd, the reorganization was assured with the Conference's adoption of the Charter of the Organization of American States and a series of complementary and implementing resolutions.

From the Conference emerged the Economic Agreement of Bogotá which dealt specifically with Inter-American Travel in these terms:

The States declare that the development of inter-American travel, including tourist travel, constitutes an important factor in their economic development. They undertake, therefore, to promote national and international action to reduce restrictions on non-immigrant travellers of the States, without discrimination among visitors because of the object of their visit . . . .

In addition to approving the Economic Agreement the Conference approved a number of resolutions which had a direct bearing on travel in the Americas. Recommendations on tourist travel, procedures to stimulate travel and reduce restrictions, and suggestions to the Third Inter-American Travel Congress appeared in Resolution XI:

The Ninth International Conference of American States Recommends:

1. Declaration of Principles. That the Governments of the Republics, as a national policy, promote and facilitate the travel of nationals of the American Republics, as bona fide temporary

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44. This official title was adopted by the First International Conference of American States in 1890 to characterize the international association of American Republics.

45. This name only came to be used as a consequence of a resolution of the Mexico Conference of 1945.

visitors for legitimate purposes in the territory of all the American-Republics.

2. *Elimination of All Except Reasonable Control Procedures.* That the Governments of the American Republics, in their laws, practices and administrative regulations governing international travel of persons, refrain from adopting and hereafter discontinue all control procedures which needlessly impede or delay the travel of nationals of the American Republics who wish to move from one American Republic to another as *bona fide* temporary visitors for legitimate purposes, and that said Governments adopt or retain only reasonable control procedures, namely, those which are strictly necessary and truly effectual for the prevention of the admission of persons whom they wish to exclude or for the preservation of security, health and public order.

5. *Participation in Third Inter-American Travel Congress.* That the Governments of the American Republics give full support to and participate actively in the Third Inter-American Travel Congress . . . 

Resolution XI also directed the Third Inter-American Travel Congress to recommend expeditious and inexpensive procedures for the issuance of identity documents such as passports, the elimination of unreasonable control procedures, and the reduction and standardization of others with a view toward removing unnecessary impediments to the free movement of nationals of any American Republic as *bona fide* temporary visitors to other American Republics. In Resolution XII the Ninth International Conference of American States made two recommendations with respect to freedom of movement and the elimination of passports. First, to entrust the Inter-American Council of Jurists and the Inter-American Economic and Social Council with the task of preparing a draft agreement to eliminate the use of passports and to establish an American identification certificate which would not require consular visas and fees. Second, pending preparation of the draft agreement, American Governments should conclude administrative agreements through the exchange of notes or bilateral agreements which would eliminate the use of passports for tourist travel on the American Continent.

Accordingly, a number of bilateral agreements were concluded for the suppression of passports and more freedom of movement. Bolivia

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48. Id. at 237-38; 1 O.A.S. Annals at 118 (1949).
and Peru signed an Agreement on Tourism\textsuperscript{49} and an Agreement on Passports and Safe-conducts\textsuperscript{50} at Lima on 15 June 1948.

In accordance with the resolution adopted by the Second Congress, the Government of Argentina with the co-operation of the OAS called the Third Inter-American Travel Congress to meet at San Carlos de Bariloche, 15-24 February 1949.\textsuperscript{51} Of special importance was the acceptance by the Congress of the Inter-American Tourist Card,\textsuperscript{52} which was to replace the passport and would be used exclusively by "tourists" and "transients." "Tourists" were defined by the Congress as "persons who travel for reasons of culture, recreation, health, family, study, business, sports, etc., provided that the immediate purpose of their activities in the country visited is not to obtain income for their sustenance and expenses of their sojourn."\textsuperscript{53}

Details pertaining to the Inter-American Tourist Card were contained in the Congress resolution as follows:

2) The aforesaid Card may be issued by any and all of the Governments of the 21 American republics and Canada through such agencies as they may determine. They will endeavor to have the Card issued throughout their respective territories.

3) The above-mentioned Card shall be valid throughout the continent, making it unnecessary to obtain consular visas and exit permits from the countries visited, provided this does not contravene the laws of the country in question.

4) The countries which adopt the Card shall issue the document solely to their nationals and to those persons who have acquired nationality by naturalization pursuant to their laws.

5) Each one of the countries which adopts the Card will undertake to admit into its territory, provided that there is no special reason to deny them admittance, the nationals of any American country who hold Cards issued by their respective countries or by the Consulate of their flag at the place where they may be residing.

6) Those countries which adopt the Card shall re-admit within their borders, at any time, those persons to whom they have issued it.

7) The terms for the issuance of the Card will be freely indicated by each Government that grants it, but the Governments will en-

\textsuperscript{49} The text of the Agreement is found in 1949 \textit{Bol. Com.}, LA PAZ 14-15.

\textsuperscript{50} Id. at 11-13.

\textsuperscript{51} The first session of the Congress began in Buenos Aires on 11 February 1949. Twenty of the American Republics, Canada and various international organizations and agencies were represented. The Republic of Bolivia did not send delegates.


\textsuperscript{53} Article 1, \S 1, note 52, \textit{supra}. 94
deavour to simplify the requirements and procedures deemed necessary.
8) The Card shall have uniform format and content and a minimum validity of six months from the date of its issuance, and shall be renewable for equal periods at the discretion of the Government issuing it.

The Card would contain the following particulars: full name, civil status, place and date of birth, profession or trade, nationality, domicile, point of origin or place of issuance, date of issue of the Card, signature and title of official issuing the Card, a photograph of the tourist affixed and stamped by the issuing office, period of validity of the Card and signature of the bearer. It was also open to the OAS to improve the Card.54

The American Governments were asked, pending their adoption of an Inter-American Tourist Card, to simplify the time-consuming procedures for issuing passports.55 Creation of an American Identification Card was favored by the Congress, as a single document to enable citizens of the American countries to travel as tourists through any of the American Republics. The Inter-American Council of Jurists and the Inter-American Economic and Social Council were invited to study and recommend specifications for such a Card,56 and all Governments were asked to initiate immediate legal and administrative processes to ensure that the card would be accepted without reservations when it was prepared. Any of the American nations were at liberty to act unilaterally, bilaterally or through regional agreements to facilitate free transit of tourists possessing a personal identity document without visas or other formalities.

During its session on 2 March 1949, the Council of the OAS directed57 the Inter-American Juridical Committee which was the permanent commission of the Inter-American Council of Jurists, to prepare a draft agreement to eliminate the use of passports and to propose an American identification not requiring consular visas or fees, in time for their consideration by the latter body at its September meeting.

In its Report58 the Inter-American Juridical Committee recognized

54. Article I, § 9, note 52, supra.
55. Resolution XI, note 52, supra.
56. Resolution XXII, note 52, supra.
58. I wish to thank Dr. Manuel Canyes, Deputy Director, Dept. of Legal Affairs, Pan American Union, for providing me with a copy of the report of the Inter-American
the desire of the majority of American nations to develop travel and the free movement of individuals. However, it took a realistic approach to the actual situations and the many prevalent obstacles involving among others, lack of human rights, the duties of the state, economic inequalities among the nations, unemployment, social problems, stringent state control over commerce and money, the political situation in the world and a growing regionalism among some of the American countries. The Committee was most cognizant of the previous attempts to facilitate travel but the existing barriers made it suggest that a Declaration by the American nations would perhaps be more effective than another convention which would not be adopted. The Inter-American Council of Jurists endorsed the Committee's findings and did not go further to carry out the plan put forward by the Ninth International Conference of American States.59

On 16 December 1950, the United States representative on the Council of the OAS requested that a Meeting of Consultation of Ministers of Foreign Affairs be held in accordance with Article 39 of the OAS Charter which states that such a Meeting shall be called "to consider problems of an urgent nature and of common interest to the American States." In this case the Meeting was called for the purpose of providing the proper safeguards in the American Republics through common security against International Communism. The Meeting was convened in Washington during 26 March-7 April 1951.60 A Resolution dealing with the strengthening of internal security called upon the American countries to enact measures to regulate transit across their boundaries of foreigners suspected of engaging in subversive acts against the defense of the American continent, and requested the Pan American Union to study measures for preventing

Juridical Committee and also to thank Professor Florenz Regelado of the University of San Beda, Philippines, for his patience in translating the text into English.


Resolution XII of the Ninth International Conference of American States had entrusted to the Inter-American Council of Jurists and the Inter-American Economic and Social Council the task of preparing the draft agreement. Since the latter body failed to contribute any ideas on the subject, the Inter-American Council of Jurists sent the report of its permanent commission to it without submitting any opinion on the report. The Inter-American Economic and Social Council took no further action on this matter—Resolution VIII, Final Act.

60. All of the American Republics and the OAS sent delegates. The United Nations sent a number of observers to the Meeting.
the abuse of freedom of transit within the hemisphere, including clandestine and illicit travel and the misuse of travel documents.\textsuperscript{61}

The Fourth Inter-American Travel Congress met at Lima, 12-20 April 1952. Again the Congress proposed that the OAS bring into effect Resolution XII of the Ninth International Conference of American States to eliminate artificial barriers to travel. One recommendation invited the Member States to either act unilaterally or to conclude agreements facilitating freedom of movement of tourists possessing personal identification certificates pending acceptance of the inter-American identification certificate.\textsuperscript{62}

At its First Meeting in 1950 the Inter-American Council of Jurists assigned its permanent commission the task of preparing a study on nationality and the status of stateless persons. A report was prepared and submitted to the Inter-American Council of Jurists on 8 July 1952, but the permanent commission was asked to prepare a more methodical study to be presented in 1956.\textsuperscript{63} Examination of the 1952 draft convention and report discloses a recommendation that each state issue the stateless persons resident in its territory a document of identification usable as a passport, and that the validity of the document be recognized by the other American States.\textsuperscript{64}

During 12-19 June 1954, the Fifth Inter-American Travel Congress was convened in Panama City. One resolution adopted by the Congress urged the Inter-American Economic and Social Council to render an opinion on the proposals previously submitted to it by the Inter-American Council of Jurists. The Congress reiterated its advice to the American Republics to conclude agreements or take unilateral action to facilitate freedom of travel for tourists, and further suggested that all countries adopt the same format for travel and transit cards.\textsuperscript{65}

At the time of signing the Final Act of the Congress, the United States delegation added a reservation to indicate approval in general


\textsuperscript{62} Fourth Inter-American Travel Congress, Final Act, \textit{Conferences and Organizations Series, No. 20} at 23; \textit{4 O.A.S. Annals} 298 (1952). A brief summary of the achievements of the Fourth Inter-American Travel Congress can be found in \textit{5 O.A.S. Annals} 63-65 (1953).

\textsuperscript{63} \textit{5 O.A.S. Annals} 156 (1953).

\textsuperscript{64} Inter-American Juridical Committee, \textit{Report and Draft on the Nationality and Status of Stateless Persons} (Dep't of International Law, Pan American Union, 1952), at 10.

\textsuperscript{65} Fifth Inter-American Travel Congress, Final Act, Resolution IX, "Personal Documents for Tourist Travel," \textit{Conferences and Organizations Series, Series No. 31} at 19-20; \textit{6 O.A.S. Annals} 197 (1954). The Congress was attended by delegates from all the OAS Member States except Paraguay. Observers and representatives from various international and national private organizations also attended.
of the principle of simplification and uniformity of travel documents, but found that thus far no inter-American travel documents had been devised which would be more serviceable than a passport. Tourist cards prepared for entry into the United States from countries other than Canada and Mexico, would have to meet all requirements of a passport and contain a valid United States visa.66

The Fifth Inter-American Travel Congress also requested the Inter-American Economic and Social Council to promote technical studies on personal identification so as to create a travel document which would serve the interests of tourism and internal security.67 Another recommendation sought the OAS to establish a technical committee to deal with the removal of travel barriers. All of the recommendations were in harmony with the Congress’s major proposal calling for an Organization Plan to assure continuity of the Congresses and provide for an effective mechanism to carry on the work between meetings. The Permanent Secretariat of the Congress filed a progress report with the Congress on the simplification of requirements for the entry of tourists into the various countries which showed (a) that the majority of countries in the hemisphere had introduced a system of tourist cards, and (b) that the practice of recognizing the personal identification cards of citizens of neighboring states had met with success.68

Accordingly, an Organization Plan was approved by the Council of the OAS on 15 December 1954. The Permanent Executive Committee of the Inter-American Travel Congresses met at Washington in June 1955. Resolutions passed during the meeting included an appeal to the American nations to facilitate the issuance of personal travel documents required of travellers in the hemisphere, and a suggestion that all nations accept any proof of identity or nationality presented by the tourist.69 The Chairman and the Permanent Secretary of the body were requested to negotiate with the American governments for the application of Annex 9 of the Convention on International Civil Aviation of 1944 to facilitate travel.70

The meeting of the Sixth Inter-American Travel Congress at San José, Costa Rica, 14-21 April 1956, adopted resolutions similar to those of the Fifth Congress. In addition, the Sixth Congress recommended

66. Id. at 48; 6 O.A.S. Annals 197 (1954).
67. Id. Resolution XI.
70. Resolution VII.
that the Permanent Executive Committee compile, study and compare national laws and regulations relative to travellers and their personal identification as well as agreements in force that facilitate the issuance of travel documents. On the basis of these studies the Permanent Executive Committee would then engage in activities destined to lead to the elimination or simplification of requirements for personal travel documents. Resolution XXII also requested the American States to simplify the requirements affecting the international air transport of passengers, i.e., to apply Annex 9 of the Chicago Convention of 1944.

The Seventh Inter-American Travel Congress met as an Inter-American Specialized Conference of the OAS at Montevideo, Uruguay, 9-17 December 1958. A request was made on the Congress for application by member States of Annex 9 of the Chicago Convention. The Congress emphasized its recommendations made at the Sixth Congress, and advocated the conclusion of bilateral and multilateral conventions for "the recognition of identification cards or other documents of identification in place of a passport for entry into other countries, that they grant equal privileges to all persons carrying such documents of identification even though the bearers may be proceeding from countries other than that of their origin, that the privileges granted in the aforesaid conventions be extended to resident aliens who have obtained a personal identification card or any other identification document provided for in the aforementioned conventions." The Congress called for a complete revision of national procedures pertaining to travel documents, to make them proportionate to the need of national security and to


72. Official delegates from 18 member nations of the OAS attended, namely: Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, El Salvador, Guatemala, Haiti, Mexico, Nicaragua, Panama, Paraguay, Peru, the United States of America, Uruguay and Venezuela.


74. Seventh Inter-American Travel Congress, Final Act, Personal Travel Documents, Res. XXVIII, CONFERENCES AND ORGANIZATIONS SERIES, No. 60, 93-94 (1958).

75. Eighteen American nations and the OAS were officially represented. Argentina, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, U.S.A., Uruguay and Venezuela.
conclude agreements either bilateral or multilateral to this effect. States revising laws and regulations were urged to provide that tourists require any proof of identity or nationality.\textsuperscript{76}

The Ninth Inter-American Travel Congress which met at Bogotá, Colombia, 28 July-3 August 1965 did not really add anything new with respect to travel documents. Such scant attention has a positive implication as freedom of movement for tourists has to a great extent arrived in Latin America. A brief analysis of current State practices supports this contention; the passport requirement for tourists has now been waived in the following cases:

**BOLIVIA**—exempts citizens of Argentina who enter from that country and hold an identity card and a tourist certificate;

**BRAZIL**—exempts citizens of Argentina, Paraguay and Uruguay who enter from their respective countries with an identification card;

**CHILE**—exempts citizens of the independent countries of the Western Hemisphere including Canada;

**COLOMBIA**—exempts United States citizens who carry a tourist or transit card;

**COSTA RICA**—exempts holders of tourist cards;

**DOMINICAN REPUBLIC**—exempts United States and Canadian citizens;

**ECUADOR**—exempts holders of tourist cards;

**EL SALVADOR**—exempts holders of tourist cards;

**GUATEMALA**—exempts holders of tourist cards;

**HAITI**—exempts tourists from Canada and the United States who hold some proof of nationality;

**HONDURAS**—exempts United States citizens who hold proof of citizenship and identity;

**NICARAGUA**—exempts native-born United States citizens who hold a tourist card;

**PANAMA**—exempts holders of tourist cards who are native-born citizens of independent countries of the Western Hemisphere;

**PARAGUAY**—exempts citizens of Argentina, Brazil and Chile who possess a personal identification card;

**UNITED STATES**—exempts citizens of Mexico who enter from Mexico or Canada and hold a valid U.S. border crossing card, and Canadians who reside in Bermuda or Canada and arrive in the United

\textsuperscript{76} Eighth Inter-American Travel Congress, Guadalajara, Mexico, Final Act, Res. XXVII.
States after a visit anywhere in the Western Hemisphere or enter
directly from Canada;
URUGUAY—exempts citizens of the independent countries in the
Western Hemisphere except Ecuador, the United States and Can-
da who possess a tourist card;
VENEZUELA—exempts holders of tourist cards.

The tourist cards or transit cards above-mentioned are issued by the
transportation companies or the consulate of the country to be visited.
These cards do not require a photograph, are valid for varying periods
of 30 days to 6 months depending on the State's policy, are renewable
and cost a fraction as much as a national passport. It might also be added
that all of the Member States of the Organization of American States
except the United States recognize the OAS Official Travel Document
as a substitute for a national passport when used by officials of the OAS
for official travel.\textsuperscript{77}

Despite these accomplishments, the OAS is not resting on its oars in
the freedom of movement field. The Member countries of the Latin
America Free Trade Association (LAFTA) prepared a Protocol on
Transit of Persons which was signed at the Meeting of the Council of
Ministers of Foreign Affairs on 12 December 1966 in Montevideo.\textsuperscript{78}

Article 1 of the Protocol provides:

Natural-born, naturalized, or legal nationals of the countries of
Latin America Free Trade Association who bear a valid passport
or identity document may enter, travel within, or leave the terri-
tory of any of the Contracting Parties without need for a special
visa or permit.\textsuperscript{79}

These persons would be able to visit each of the other countries for an
initial period of ninety days which could be extended by the host
authorities. Each of the Contracting Parties would re-admit, at any time
and without formalities, persons who entered the territory of another
Member country of LAFTA who possessed one of its aforementioned
travel documents. Each Party would be at liberty to unilaterally sus-

\textsuperscript{77} Technical Committee on the Removal of Travel Barriers (Facilitation), Doc. 4,
28 April 1967, Inter-American Travel Congress, Permanent Secretariat, Pan American
Union, Washington, D.C.

\textsuperscript{78} The Protocol was signed by the Ministers of Foreign Affairs for Argentina, Brazil,
Chile, Colombia, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela. The Proto-
col is found in Appendix 1 to Technical Committee on the Removal of Travel Barriers
(Facilitation), Doc. 2, 30 June 1967, Inter-American Travel Congress, Permanent Secre-
tariat, Pan American Union, Washington, D.C.

\textsuperscript{79} Id.
pend operation of the agreement for reasons of security or public order, which if exercised, would require notice of suspension to be communicated to the other States. Nothing in the agreement could prejudice the internal provisions operative in each of the Contracting States with regard to its public order, police matters and public health.

Portions of the Protocol have been incorporated into a draft (Inter-American Convention on Facilitation of Tourist Travel) prepared by the Department of Legal Affairs of the Pan American Union which will eventually be submitted to the Inter-American Travel Congress. If the draft Convention is adopted by the Congress, followed by the necessary ratification and implementation by the Member States of the OAS, "temporary visitors" (who are liberally defined in Article 1) would be able to enter, travel in or depart from the territory of any of the Contracting Parties merely by presenting an official identity document issued by the competent authority of his country. This procedure is meant to benefit only those "temporary visitors" who were natural-born or naturalized citizens of a Contracting Party. However, the Convention could also apply to other persons as "temporary visitors" if they resided in any territory of a Contracting Party for more than two years and possessed an official identity document issued by such State which establishes the residency requirement, and a document certifying the holder's right to re-enter his country of residence. States are also asked to make these documents uniform, simple, easily obtainable and as inexpensive as possible. A readmittance clause similar to the one contained in the Protocol is also proposed.

II. FREEDOM OF MOVEMENT AS A HUMAN RIGHT

Passports and travel documents are prerequisites to any freedom of movement. Although there has been much progress with respect to the suppression of passports, nevertheless, each State requires foreigners and often their own nationals to present some valid travel document as a condition of entry to its territory. The first concern on the regional plane of the relationship between these documents and human rights
Latin America

arose by implication in 1948. In that year the Ninth International Conference of American States held at Bogota adopted the American Declaration of the Rights and Duties of Man in which freedom of movement was incorporated in Article VIII by the statement that "every person has the right to fix his residence within the territory of the State of which he is a national, to move about freely within such territory, and not to leave it except by his own will." (Emphasis added.)

The next important development took place in 1959 at the fourth meeting of the Inter-American Council of Jurists held at Santiago, during 24 August-9 September, at which a draft Inter-American Convention on Human Rights was prepared. Article 15 of the draft convention provided:

Subject to any general legislative enactments of the State concerned that provide for such restrictions as may reasonably be necessary to protect national security, public safety, public health or morality, or the rights and freedoms of others and as are consistent with the other rights recognized in this Convention:

1.b. Everyone shall have the right to leave any country, including his own.

Consideration of the text of the draft convention at an Inter-American Conference was repeatedly postponed until the Second Special Inter-American Conference held in Rio de Janeiro, 17-30 November 1965. The Conference in Resolution XXIV decided to send the draft convention along with two other draft conventions on the subject submitted independently by the Governments of Chile and Uruguay to the OAS Council for their consideration. The OAS Council at its meeting of 18 May 1966 requested the Inter-American Commission on Human Rights to study the three drafts and make whatever recommendations it deemed pertinent. On 21 October 1966, the Commission completed its assignment and informed the Council thereof. Article 15 as submitted by the Commission reflects the following change:

2. Every person shall have the right to leave any country freely, including his own.

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82. The American Declaration of the Rights and Duties of Man is found in 43 Am. J. Int'l L. (Supp.) 133 (1949).
83. The draft convention is found in Final Act of the Fourth Meeting of the Inter-American Council of Jurists, Santiago, Chile, August 24-September 9, 1959; OAS Doc. OEA/Ser. C/IV. 4, CIJ-43, at 48-75. For a preliminary comment on the draft convention see, G. Ezejigor, Protection of Human Rights Under the Law 137-141 (1964).
84. OAS Doc. OEA/Ser. G/IV, C-I-787 (English) Rev. 3, 7 June 1967, Appendix II.
3. The exercise of the foregoing rights may only be restricted, by virtue of a law, by the measures that are indispensable in a democratic society to prevent crimes or to protect national security, public safety, public order, public morals, public health, or the rights and freedoms of others.

On reception of the Commission’s report, the Council referred the report to The Committee on Juridical-Political Affairs for comment. This body rendered its opinion to the Council on 31 May 1967, and on June 7th the Council adopted that opinion as its own. The Committee on Juridical-Political Affairs did not recommend any changes to affect the substantive question concerning the individual’s right to leave any country, but rather raised questions pertaining to the institutional and procedural aspects of the proposed system, i.e., whether the Member Governments of the OAS wished to establish regional machinery to co-exist with and be co-ordinated with world-wide regulation or rely upon a universal system of regulation for the protection of human rights. The decision of which way to proceed has been left to the Member Governments of the OAS for the present.

III. RECENT DEVELOPMENTS CONCERNING LATIN AMERICAN REFUGEES

At its Seventh Session in October 1963, the Inter-American Commission on Human Rights began a study of the situation of political refugees in the Americas. The secretariat of the Commission prepared the Preliminary Study which was discussed at the eighth session of the Commission in April 1964. A representative of the United Nations High Commissioner for Refugees attended and referred to the particular need for American countries to issue a travel document to refugees as contemplated in the 1951 Convention on Refugees (it seems only Argentina, Brazil, Colombia and Ecuador were Parties to the Convention, and that only Ecuador issued the corresponding travel document for refugees).
The Commission decided among other things to inform the Secretary-General of the OAS of the situation of political refugees in the Americas and drew his attention to the fact that "one of the most serious problems that confronts these refugees is the need for a travel document; since they cannot obtain such a document from their country of origin they are prevented, in general, from leaving the country of first asylum." The Commission requested the Secretary-General on 21 April 1964 to present the following recommendation to the OAS Member States: "that the governments of the member States of the Organization consider the possibility of issuing a travel document to Latin American political refugees located within their territory who lack passports." The Secretary-General was also asked to request the Inter-American Juridical Committee to proceed with their study on nationality and statelessness which had been entrusted to it by the Inter-American Council of Jurists in 1953.

By September 1964, only the Dominican Republic had responded to the Commission’s request. According to their reply, travel documents had been issued to refugees for some time, while only Haitians who recently arrived in the Dominican Republic were considered "political refugees." Thus far, this has been the only reply published.

At its tenth meeting held on 26 March 1965, the Inter-American Commission on Human Rights adopted the following position on the subject:

To recommend to the governments of the member States of the Organization that they consider the possibility of issuing to political refugees of the American countries who are in their territories legally travel documents that will permit them to travel outside those territories, or to study the possibility of recognizing as valid the travel documents held by those refugees, that have expired or cannot be renewed.

The Second Special Inter-American Conference, held in Rio de Janeiro in 1965 dealt with the topic of political refugees during its sessions and adopted Resolution XXI which provided:

2. To recommend to the states that they study the possibility of

90. Id. at 21.
91. Id.
92. Preliminary Study on Political Refugees in America (Supp.); OAS Doc. OEA/Ser. L/V/II.10, Doc. 6, 28 September 1964, at iii.
issuing a travel document to refugees who must take final leave of the country where they obtained asylum, using as a sample the specifications included in Article 28 of the Convention on the Status of Refugees, signed at Geneva in 1951, and the annex thereto.

3. To charge the Inter-American Juridical Committee of Rio de Janeiro with the preparation of a draft convention on refugees, after consulting the Inter-American Commission on Human Rights.94

At present, the Commission is waiting for the proper time to formulate its observations and comments on the draft convention prepared by the Inter-American Juridical Committee.95

CONCLUSIONS

The topic of Inter-American travel and travel documents for Latin America has been studied for a long time, first under the Union of the American Republics then under the Inter-American System, and since 1951 under the aegis of the Organization of American States. It is interesting that through the years the countries and international organizations of the Western Hemisphere have taken little notice of the European arrangements on the subject. Although the conditions and circumstances vary considerably between Europe and the Western Hemisphere, profitable lessons can still be learned from the experience and accomplishments of the Organization for European Economic Co-operation, the Council of Europe, the European Communities, Benelux and Scandinavia in the same field.96

More recently the Latin American republics have recognized the necessity of making the human right of freedom of movement more viable. The growing number of political refugees has also made them more cognizant of the need for issuing to these persons a travel document. Projects have been launched in both fields which will hopefully bear fruit in the near future and permit all persons to realize the full potential of their mobility.

95. OAS Doc. OEA/Ser. L/V/II.17, Doc. 24 (English), 5 September 1967, at 32. The preliminary draft of the Inter-American Convention on Refugees is found in OAS Doc. OEA/Ser. 1/VI.2, CIJ-85.