



Seventeenth session  
Agenda item 44

DRAFT CONVENTION AND DRAFT RECOMMENDATION ON CONSENT TO MARRIAGE,  
MINIMUM AGE FOR MARRIAGE AND REGISTRATION OF MARRIAGES

Report of the Third Committee

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I. INTRODUCTION

1. At the sixteenth session of the General Assembly the Third Committee adopted the Preamble and the three substantive articles - articles 1, 2 and 3 - of the draft Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages. In resolution 1680 (XVI) the General Assembly decided to assign priority at its seventeenth session to the consideration of the remaining articles of the draft Convention and to the draft Recommendation on the same subject approved by the Commission on the Status of Women, devoting to that consideration the number of meetings necessary for its completion.
2. At its seventeenth session the General Assembly decided, on 24 September 1962, to allocate to the Third Committee item 44 of the agenda entitled "Draft Convention and Draft Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages". The Committee considered this as the second item on its agenda, discussing it at the 1140th to 1148th meetings held from 3 to 10 October 1962. The views expressed by individual members of the Committee may be found in the Summary Records (A/C.3/SR.1140-1148).
3. The Committee had before it a Note by the Secretary-General (A/5128), drawing attention to the text of the articles of the draft Convention adopted

at the previous session<sup>1/</sup> and to a Memorandum by the Secretary-General<sup>2/</sup> containing, in addition to background information on the draft Convention and draft Recommendation, draft final and formal clauses for the draft Convention in alternative form. These were prepared by the Secretary-General at the request of the Economic and Social Council at its thirtieth session. The text of the draft Recommendation as approved by the Commission on the Status of Women at its fifteenth session, and amendments presented to it at the thirtieth session of the Economic and Social Council, were contained in Council resolution 821 B III (XXXII).

## II. DRAFT CONVENTION ON CONSENT TO MARRIAGE, MINIMUM AGE FOR MARRIAGE AND REGISTRATION OF MARRIAGES

4. Some representatives suggested that, in view of the close vote by which paragraph 2 of article 1, which provided that marriage by proxy would be permitted only in exceptional circumstances, had been adopted, the Committee should attempt by means of consultations to find a new formula introducing provisions acceptable to the greatest number of States, which would help to make accession to the Convention unanimous and unreserved. This, they thought, should be done before the reservations clause was considered by the Committee. They emphasized, however, that there was no intention to reopen discussion of article 1, paragraph 1, since it was unnecessary to do so. Others were opposed to any reopening of the debate on an article already adopted. It was pointed out that the words in paragraph 2 "the circumstances are exceptional", and article 1 as a whole, had been adopted by a decisive majority. Several representatives drew attention to the terms of resolution 1680 (XVI) in which the General Assembly decided to assign priority at the seventeenth session to the "remaining articles of the draft Convention." As no formal proposal relating to the reopening of the discussion was submitted, the Committee proceeded to discuss the final clauses.

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<sup>1/</sup> Official Records of the General Assembly, Sixteenth Session, Annexes, agenda item 85, document A/5035, Annex.

<sup>2/</sup> Ibid., document A/4844; see, in particular, Annex III.

Article 4 (Signature and ratification)

5. The Committee discussed article 4 on signature and ratification at the 1140th-1143rd meetings, held from 3 to 5 October 1962.
6. In the Memorandum by the Secretary-General (A/4844, Annex III) two alternative texts of this article were suggested (articles 4 A and 4 B). One, based on article IV of the Convention on the Political Rights of Women, provided that the Convention shall be open for signature on behalf of any Member of the United Nations, and also on behalf of any other State to which an invitation has been addressed by the General Assembly. The second provided that the Convention shall be open for signature and ratification on behalf of any State Member of the United Nations, and also on behalf of any other State which is, or hereafter becomes, a member of any specialized agency of the United Nations, or which is, or hereafter becomes, a party to the Statute of the International Court of Justice, or any other State to which an invitation has been addressed by the General Assembly of the United Nations. The principle of this clause had been applied in the Convention on the Nationality of Married Women.
7. Ghana, Guinea, Iraq, Mali and Romania proposed the following text for article 4 (A/C.3/L.982 and Add.1):

"1. The present Convention shall be open for signature on behalf of all States.

"2. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations."

8. The United States of America submitted an amendment (A/C.3/L.983) to the above proposal, which, in its revised form, read as follows (A/C.3/L.983/Rev.1):

"1. In the proposed first paragraph:

(a) After the words 'The present Convention shall' insert a comma and add the words 'until 31 December 1963,'.

(b) Add at the end of the paragraph the following: 'Members of the United Nations or of any of the specialized agencies, and of any other State invited by the General Assembly of the United Nations to become a Party to the Convention.'

"2. In the proposed second paragraph, replace the words 'It shall be ratified and,' by 'The present Convention is subject to ratification.' The rest of the proposed paragraph would then become the second sentence of the paragraph."

9. Saudi Arabia submitted the following amendment (A/C.3/L.984 to the above revised amendment of the United States of America (A/C.3/L.983/Rev.1, para. 1 (b)):

"After the words 'and of any other State' replace the present text by the following: 'which submits through the Secretary-General or any Member State a request to the General Assembly and is thereby invited by it to become a party to the Convention'."

This amendment was subsequently withdrawn.

10. In the Committee discussions many representatives emphasized that the Convention, which, in the first three articles, laid down extremely important principles relating to marriage, should be applied universally. The view was expressed that all conventions dealing with human rights questions should be of universal application.

11. A number of representatives thought that both alternative texts suggested in the Secretary-General's memorandum, like the United States proposal, would constitute a restriction of the principle of universality. It was pointed out that it would be unfair for millions of women to be deprived of the benefits afforded by the provisions of the Convention solely because of the political situation in their countries. Some representatives pointed out that the Convention was intended to apply to marriage, which was a social institution whatever system it followed, the principles proclaimed in the Universal Declaration of Human Rights and should, therefore, be open to all States without exception. Attention was drawn to the fact that the principle of universality had been recognized in the case of several other important Conventions, including the four Conventions adopted at Geneva in August 1949 relative to the war wounded and the protection of civilian persons in time of war. Reference was also made to the studies recently made by the International Law Commission in regard to the Law of Treaties. In the commentary on articles 8 and 9 it was stated that the Commission was unanimous in thinking that "general multilateral treaties" considered to be of special importance should, in principle, be open to participants on as wide a basis as

possible.<sup>3/</sup> Some representatives thought that the United States amendment, whereby the General Assembly would invite States to become parties to the Convention, would open the way to arbitrary decisions.

12. Other representatives thought that to open the Convention to all States might place the Secretary-General in the difficult position of having to decide whether or not a particular disputed entity should be recognized as a State by the international community. Since the Secretary-General was called upon to perform certain functions in connexion with the Convention, it should state clearly what States could become parties to it, and should follow the precedents of other conventions concluded under United Nations auspices. It was argued that, as there were now few States which were not Members of the United Nations or of one of the specialized agencies, adherence to the Convention would be sufficiently broadened if it were opened to signature and ratification on behalf of such States and, if, in addition, the General Assembly could invite any other State to become a party to the Convention. Such a provision would mean that the General Assembly, rather than the Secretary-General, would have to decide on any political issues which might be involved.

13. It was suggested that some of the political difficulties might be overcome if the article were to provide that the Convention should be opened for signature on behalf of Members of the United Nations and of the specialized agencies, and any other State which submitted a request to that effect to the General Assembly, and was invited by the General Assembly to become a party to the Convention. If such a proposal were adopted, the General Assembly would know in advance whether a particular State wished to become a party to the Convention, and lengthy debates over political issues might be avoided. Any difficulty which might arise with regard to placing an item on the agenda of the General Assembly would be met by a provision that the request should be submitted through the Secretary-General or a Member State.

14. At the 1142nd meeting, held on 4 October 1962, the Legal Counsel made a statement (A/C.3/L.985) in reply to questions raised by the representatives of Ireland and Saudi Arabia.

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<sup>3/</sup> Ibid., Seventeenth session, Supplement No. 9 (A/5209), p. 11.

Voting

15. At its 1142nd meeting the Committee voted as follows:

16. The first United States amendment (A/C.3/L.983/Rev.1 para. 1(a)) to paragraph 1 of the proposal of Ghana, Guinea, Iraq, Mali and Romania (A/C.3/L.982 and Add.1) to insert a comma after the words "the present Conventional shall" and add the words "until 31 December 1963" was adopted by 66 votes to none, with 17 abstentions.

17. The second United States amendment (A/C.3/L.983/Rev.1, para. 1(b)) to paragraph 1 of the above proposal was voted by division at the request of the representative of Bulgaria. The words "Members of the United Nations or of any of the specialized agencies, and of any other State" were adopted by 76 votes to one, with 9 abstentions. The words "invited by the General Assembly of the United Nations to become a party to the Convention" were adopted, on a roll-call vote, by 51 votes to 28, with 13 abstentions. The voting was as follows:

In favour: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Cameroon, Canada, Chad, Chile, China, Colombia, Costa Rica, Cyprus, Denmark, Dominican Republic, Ecuador, El Salvador, Federation of Malaya, Finland, France, Greece, Guatemala, Honduras, Iran, Ireland, Israel, Italy, Jamaica, Japan, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Portugal, Senegal, South Africa, Spain, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: Afghanistan, Albania, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Ceylon, Cuba, Czechoslovakia, Ethiopia, Ghana, Guinea, Hungary, India, Indonesia, Iraq, Laos, Mali, Mongolia, Nepal, Poland, Romania, Syria, Tanganyika, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Yugoslavia.

Abstaining: Congo (Brazzaville), Congo (Leopoldville), Jordan, Libya, Mauritania, Nigeria, Saudi Arabia, Sierra Leone, Sudan, Togo, Tunisia, Upper Volta, Yemen.

18. Paragraph 1 of the five-Power proposal as a whole, as amended, was adopted by 49 votes to 4, with 33 abstentions.

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19. The United States amendment (A/C.3/L.983/Rev.1, para. 2) to paragraph 2 of the five-Power proposal to replace the words "it shall be ratified and" by "the present Convention is subject to ratification" was adopted by 73 votes to none, with 13 abstentions.

20. Paragraph 2 of the five-Power proposal as a whole, as amended, was adopted by 73 votes to none, with 10 abstentions.

21. Article 4 as a whole, as amended, was adopted by 57 votes to none, with 32 abstentions.

#### Article 5 (Accession)

22. The Committee discussed article 5 relating to accession at the 1143rd meeting on 5 October 1962.

23. Iraq proposed as article 5 the text suggested in the Secretary-General's memorandum (A/4844, Annex III, article 5) which read as follows:

"1. The present Convention shall be open for accession to all States referred to in paragraph 1 of article 4.

"2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations."

24. There was no discussion of this proposal which was adopted by 55 votes to none, with 13 abstentions.

#### Article 6 (Entry into force)

25. The Committee discussed article 6 dealing with the entry into force of the Convention at the 1143rd meeting on 5 October 1962.

26. Indonesia proposed the following text of article 6, based on that suggested in the Secretary-General's memorandum (A/4844, Annex III, article 6):

"1. The present Convention shall come into force on the ninetieth day following the date of deposit of the twenty-second instrument of ratification or accession.

"2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the ninetieth day after deposit by such State of its instrument of ratification or accession."

27. Greece orally proposed that "eighth" should be substituted for "twenty-second" in paragraphs 1 and 2 of the article.
28. The amendment of Greece was adopted by 39 votes to 8, with 23 abstentions. Article 6 as a whole, as amended, was adopted by 60 votes to one, with 13 abstentions.

#### Territorial Application Clause

29. The Committee discussed the territorial application clause at the 1143rd and 1144th meetings held on 5 October 1962.
30. Ethiopia proposed the text of an article dealing with the territorial application of the Convention (A/C.3/L.986) which was one of four alternatives suggested in the Secretary-General's memorandum (A/4844, Annex III, Article 7 A) based on article 12 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956. As orally amended by the representative of Ethiopia during the discussion, the proposal read as follows:

"1. This Convention shall apply to all Non-Self-Governing, Trust, colonial and other non-metropolitan Territories for the international relations of which any State Party is responsible until their achievement of independence; the Party concerned shall, subject to the provisions of paragraph 2 of this article, at the time of signature, ratification or accession declare the non-metropolitan territory or territories to which the Convention shall apply ipso facto as a result of such signature, ratification or accession.

"2. In any case in which the previous consent of a non-metropolitan territory is required by the constitutional laws or practices of the Party or of the non-metropolitan territory, the Party concerned shall endeavour to secure the needed consent of the non-metropolitan territory within the period of twelve months from the date of signature of the Convention by the metropolitan State, and when such consent has been obtained the Party shall notify the Secretary-General. This Convention shall apply to the territory or territories named in such notification from the date of its receipt by the Secretary-General.

"3. After the expiry of the twelve-month period mentioned in the preceding paragraph, the States Parties concerned shall inform the Secretary-General of the results of the consultations with those non-metropolitan territories for whose international relations they are for the time being responsible, and whose consent to the application of this Convention may have been withheld."



The representative of Ethiopia accepted the suggestion of France that the French text of paragraph 1 should be amended to read: "La présente Convention s'appliquera à tous les territoires non autonomes, sous tutelle, colonieux et autres territoires non métropolitains pour lesquels un Etat partie assume la responsabilité internationale; ... "

31. The United Kingdom proposed, but subsequently withdrew in favour of the above proposal of Ethiopia, the text of the following article, which was another alternative suggested in the Secretary-General's memorandum (article 7 D) based on article 12 of the Convention on the Prevention and Punishment of the Crime of Genocide of 1948:

"Any Contracting State may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting State is responsible."

32. In support of the inclusion of a territorial application clause it was argued that, without such a clause, the application of the Convention would not be universal, since certain Governments would be unable to become Parties to it, and millions of persons would thereby be deprived of its benefits. In many dependent territories, especially those which would soon become independent, matters relating to marriage fell within the jurisdiction of the territories concerned, and the Administering Authority could not, therefore, take any decision on their behalf in regard to the Convention. Attention was drawn to other Conventions concluded under United Nations auspices which contained territorial application clauses, and, among these, the Single Convention on Narcotic Drugs of 1953 was cited as having been adopted subsequent to General Assembly resolution 1514 (XV) on the Declaration on the granting of independence to colonial countries and peoples. It was said that this implied that there was no conflict between the resolution and the inclusion of a territorial application clause in the Convention. Some representatives argued that inclusion of a territorial application clause in the Convention did not imply support for colonialism, but merely recognized the constitutional difficulties facing certain Governments, and was aimed at securing for the peoples of dependent territories the same advantages as others would enjoy under the Convention.

33. Those who opposed the inclusion of a territorial application clause argued that such a provision would conflict with resolution 1514 (XV), in which the General Assembly had proclaimed the necessity of bringing to a speedy end colonialism in all its forms and manifestations. It would therefore be to sanction the existence of colonialism to include in the Convention any provisions relating to that system. It was pointed out that the Convention under consideration was the first to be transmitted to the General Assembly for adoption since the Declaration on the granting of independence to colonial countries and peoples had been adopted, and to include a territorial application clause therein might become a means of infringing the provisions of that Declaration. Moreover, it would not be proper to make any reference to Trust or Non-Self-Governing Territories in the Convention, since the continued existence of dependent peoples and territories could no longer be assumed. It was also said that the clause would detract from the universal application of the Convention and that to accelerate the granting of independence to the territories concerned was a better way of overcoming any constitutional difficulties that might be involved than to insert a territorial application clause in the Convention.

34. In the course of the discussion the representative of Upper Volta orally moved the deletion of the article proposed by Ethiopia. After a procedural discussion, the Committee, voting on a proposal of the United Arab Republic, decided, on a roll-call vote of 57 to 23, with 7 abstentions, not to include a territorial application clause in the Convention. The voting was as follows:

In favour: Australia, Austria, Belgium, Canada, Denmark, Ethiopia, Federation of Malaya, Finland, France, Ireland, Italy, Japan, Liberia, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Afghanistan, Albania, Argentina, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cambodia, Cameroon, Chile, Congo (Brazzaville), Congo (Leopoldville), Cuba, Czechoslovakia, Dahomey, Dominican Republic, Ecuador, El Salvador, Gabon, Ghana, Guatemala, Guinea, Haiti, Hungary, India, Indonesia, Iran, Iraq, Israel, Ivory Coast, Jordan, Lebanon, Libya, Mali, Mauritania, Mexico, Mongolia, Morocco,

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Nepal, Nigeria, Peru, Philippines, Poland, Romania,  
Saudi Arabia, Senegal, Syria, Tanganyika, Togo, Tunisia,  
Ukrainian Soviet Socialist Republic, Union of Soviet Socialist  
Republics, United Arab Republic, Upper Volta, Uruguay,  
Venezuela, Yugoslavia.

Abstaining: Burma, Ceylon, Chad, China, Madagascar, Pakistan, Panama.

### Reservations

35. The Committee discussed the reservations clause at the 1145th to 1148th meetings, held on 9 and 10 October 1962.

36. Argentina proposed the following text of an article on reservations (A/C.3/L.987), which was based on one of three alternatives suggested in the Secretary-General's memorandum (A/4844, Annex III, article 8 B), and applied in the Convention on the Nationality of Married Women:

"1. At the time of signature, ratification or accession, any State may make reservations to any article of the present Convention other than articles 1, 2 and 3.

"2. If any State makes a reservation in accordance with paragraph 1 of the present article, the Convention, with the exception of those provisions to which the reservation relates, shall have effect as between the reserving State and the other Parties. The Secretary-General of the United Nations shall communicate the text of the reservation to all States which are or may become Parties to the Convention. Any State Party to the Convention or which thereafter becomes a Party may notify the Secretary-General that it does not agree to consider itself bound by the Convention with respect to the State making the reservation. This notification must be made, in the case of a State already a Party, within ninety days from the date of the communication by the Secretary-General; and, in the case of a State subsequently becoming a Party, within ninety days from the date when the instrument of ratification or accession is deposited. In the event that such a notification is made, the Convention shall not be deemed to be in effect as between the State making the notification and the State making the reservation.

"3. Any State making a reservation in accordance with paragraph 1 of the present article may at any time withdraw the reservation, in whole or in part, after it has been accepted, by a notification to this effect addressed to the Secretary-General of the United Nations. Such notification shall take effect on the date on which it is received."

37. Indonesia, Mali and the United Arab Republic submitted the following amendment (A/C.3/L.988) to the above proposal:

"In paragraph 1 of the proposed article, replace 'articles 1, 2 and 3' by the following: 'article 1, paragraph 1, and articles 2 and 3'."

38. During the discussion the representative of Mauritania orally proposed that there should be no reservations clause in the draft Convention.

39. The discussion centred mainly on whether reservations could be made to any of the three substantive articles of the Convention, and whether a reservations clause was necessary. Attention was drawn to General Assembly resolution 598 (VI) recommending that United Nations organs should, in preparing multilateral conventions, consider the insertion therein of provisions relating to the admissibility or non-admissibility of reservations, and to the effect to be attributed to them.

40. Some representatives, arguing that no reservations to articles 1, 2 and 3 of the Convention, should be allowed, said that the provisions there laid down relating to full and free consent of both parties to marriage, the establishment of a minimum age for marriage, and the registration of marriages, affirmed principles which were generally accepted, and which were of great importance. The three articles were, moreover, drafted in general and flexible terms. It was said that the Convention aimed at setting international standards relating to marriage, and to allow reservations to any of these articles would only serve to lower that standard. Women in many parts of the world, in both urban and rural areas, had shown considerable interest in the Convention and would be greatly disappointed if its provisions were in any way weakened by permitting States to make reservations to them.

41. Others argued that, in a number of countries, marriage by proxy was an accepted custom and not an exceptional circumstance, and this meant that they could not agree with paragraph 2 of article 1 as at present worded, and would have to make reservations to it. Those representatives pointed out that the paragraph had been added by the Third Committee to the original text drafted by the Commission on the Status of Women, and it had been adopted by a very small majority. They said that the paragraph itself constituted a reservation to the general principle of free consent to marriage enunciated in paragraph 1 of article 1.

42. Opinions differed on the possible consequences of omitting a reservations clause. It was pointed out that there was no rule of law providing that, in order to be valid, reservations must have the assent of all other States Parties. Consequently, unless the Convention contained a reservations clause, stating the effect to be attributed to reservations, the relationship between States which formulated reservations and other States Parties would be quite uncertain. Under General Assembly resolution 598 (VI) the Secretary-General, as the depositary of documents containing reservations, would communicate them to all States concerned, leaving it to each State to draw the legal consequences. It was said that to omit a reservations clause would mean that States could make reservations to any article and could thus nullify the effect of their ratification of or accession to the Convention. Reference was made to the advisory opinion of the International Court of Justice of 28 May 1951 relating to the Convention on the Prevention and Punishment of the Crime of Genocide, in which the Court had stated that reservations must be compatible with the object and purpose of the Convention. Some were of the view that this opinion would apply in the case of reservations to the Convention under consideration. Others, however, argued that the Court's opinion was purely advisory, and related only to the Genocide Convention and did not constitute a rule of law. Yet others expressed the view that the absence of a reservations clause would mean that reservations would be regulated by general international law, and that the admissibility and effect of a particular reservation would depend on its acceptance by the other States Parties to the Convention.

43. A suggestion was made in the course of the discussion that it might be preferable to adopt a declaration, rather than attempt to complete the drafting of the Convention in view of the difficulties which had arisen over the reservations clause. It was emphasized, however, that a Convention would be the most effective means of eliminating certain customs, ancient laws and practices relating to marriage and the family which the General Assembly had condemned in resolution 843 (IX) of 17 December 1954, and it was essential to the peoples of countries where such practices occurred that the principles laid down in articles 1, 2 and 3 of the draft under consideration should be embodied in an international convention concluded under the auspices of the United Nations.

Voting

44. At the 1147th meeting on 10 October 1962 the Committee decided by 37 votes to 25, with 17 abstentions, not to vote first upon the proposal of Argentina.

45. It then voted on the proposal of Mauritania and decided, on a roll-call vote, by 32 votes to 25, with 28 abstentions, not to include a reservations clause in the Convention. The voting was as follows:

In favour: Albania, Algeria, Australia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Ceylon, Costa Rica, Cuba, Czechoslovakia, Federation of Malaya, Hungary, India, Indonesia, Mali, Mauritania, Mexico, Mongolia, Nepal, Poland, Romania, Sudan, Syria, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta.

Against: Argentina, Belgium, Bolivia, Chile, Colombia, Denmark, Finland, France, Greece, Guatemala, Iraq, Ireland, Israel, Italy, Liberia, Madagascar, Netherlands, Nigeria, Norway, Panama, Peru, Philippines, Spain, Sweden, Togo.

Abstaining: Afghanistan, Austria, Cameroon, Canada, Central African Republic, Chad, China, Congo (Brazzaville), El Salvador, Ethiopia, Ghana, Haiti, Iran, Ivory Coast, Jamaica, Japan, Laos, Libya, New Zealand, Niger, Pakistan, Senegal, Tanganyika, Thailand, Turkey, Uruguay, Venezuela, Yugoslavia.

46. At the 1148th meeting, held on 10 October 1962, the representative of Nigeria stated that she wished to change her negative vote on the proposal of Mauritania to an affirmative one.

Article 7 (Denunciation and Abrogation)

47. Article 7, dealing with denunciation and abrogation, was discussed at the 1148th meeting of the Committee held on 10 October 1962.

48. The United Kingdom proposed the following text of article 7, based on that contained in the Secretary-General's memorandum (A/4844, Annex III, article 9), and incorporating the suggestion of Greece that the figure "eight" should be inserted in paragraph 2:

"1. Any Contracting State may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. The present Convention shall cease to be in force as from the date when the denunciation which reduces the number of Parties to less than eight become effective."

49. The above proposal was adopted by 71 votes to none, with 4 abstentions.

#### Article 8 (Settlement of disputes)

50. Article 8, on the settlement of disputes, was discussed at the 1148th meeting of the Committee held on 10 October 1962.

51. The United States of America proposed the following text of article 8, one of two alternative clauses suggested in the Secretary-General's memorandum (A/4844, Annex III, article 10 B), which was used in the Convention on the Nationality of Married Women:

"Any dispute which may arise between any two or more Contracting States concerning the interpretation or application of the present Convention, which is not settled by negotiation, shall, at the request of any one of the parties to the dispute, be referred to the International Court of Justice for decision, unless the parties agree to another mode of settlement."

52. The representative of Romania orally proposed that the words "any one of the parties to the dispute" should be replaced by "all parties to the dispute".

53. It was argued in favour of the amendment that a number of States did not recognize the compulsory jurisdiction of the International Court of Justice and could not, therefore, agree that disputes should be referred to the Court at the request of one party only. It was pointed out that in the case of the Convention on the Nationality of Married Women several States had made reservations to the article providing that disputes might be referred to the Court at the request of one of the parties.

54. Against the amendment it was argued that practical difficulties would arise if the article were to provide that all parties must agree to referral of a dispute to the Court. It might prove impossible to reach unanimity and that would seriously delay the settlement of the dispute.

55. The Committee adopted the Romanian amendment to the proposal of the United States of America by 33 votes to 30, with 20 abstentions. Article 8 as a whole was adopted by 40 votes to 6, with 34 abstentions.

Article 9 (Notifications)

56. The Committee considered article 9, on notifications, at the 1148th meeting on 10 October 1962.

57. The United Arab Republic proposed the following text of the article, based on one of two alternatives in the memorandum by the Secretary-General (A/4844, Annex III, article 11 A):

"The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in paragraph 1 of article 4 of this Convention of the following:

(a) Signatures and instruments of ratification received in accordance with article 4;

(b) Instruments of accession received in accordance with article 5;

(c) The date upon which this Convention enters into force in accordance with article 6;

(d) Notifications of denunciation received in accordance with paragraph 1 of article 7;

(e) Abrogation in accordance with paragraph 2 of article 7."

58. This proposal was adopted by 87 votes to none, with 4 abstentions.

Article 10

59. Article 10 was also considered at the 1148th meeting of the Committee on 10 October 1962.

60. The United Arab Republic and the United Kingdom proposed as the text of this article that contained in the Secretary-General's memorandum (A/4844, Annex III, article 12), which read as follows:

"1. The present Convention, of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.



2. The Secretary-General of the United Nations shall transmit a certified copy of the Convention to all States Members of the United Nations and to the non-member States contemplated in paragraph 1 of article 4."

61. This proposal was adopted by 79 votes to none, with 3 abstentions.

Vote on the draft Convention as a whole

62. At its 1148th meeting on 10 October 1962 the Committee adopted the draft Convention as a whole by 80 votes to none, with 8 abstentions.

Draft resolution relating to the Convention

63. Ghana, Guinea and Mauritania proposed the following draft resolution (A/C.3/L.989) which was adopted by 78 votes to none, with 4 abstentions:

"The General Assembly,

Considering that it is appropriate to conclude under the auspices of the United Nations an international convention on the free consent to marriage, the minimum age for marriage and the registration of marriages,

Decides to open the Convention annexed to the present resolution for signature and ratification on 10 December 1962."

III. DRAFT RECOMMENDATION ON CONSENT TO MARRIAGE, MINIMUM AGE FOR MARRIAGE AND REGISTRATION OF MARRIAGES

64. At the 1148th meeting on 10 October 1962 Italy proposed the following draft resolution (A/C.3/L.990) relating to the draft Recommendation:

"The General Assembly

Requests the Economic and Social Council to ask the Commission on the Status of Women to consider the draft Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (Economic and Social Council resolution 821 III B (XXXII)) in the light of the discussions in the General Assembly on the draft Convention on the same subject, and to report back in time for consideration of the draft Recommendation by the General Assembly at its eighteenth session."

65. The Committee adopted this proposal by 47 votes to 4, with 30 abstentions.

of activities is based on, and will be facilitated by, the encouraging results of the 1962 Pledging Conference which was held in October. The Advisory Committee has been informed that the Expanded Programme of Technical Assistance is expected to receive at least some \$49.1 million for 1963, as compared with \$45.3 million pledged for 1962, a minimum increase of \$3.8 million.

4. In its reports of the past few years, the Advisory Committee commented on the continuing rise in the ratio of TAB secretariat expenses to total programme costs (5.7 per cent in 1959, 6.0 per cent in 1960, 6.4 per cent in 1961 and 7.9 per cent in 1962). The Committee notes that, for 1963, this trend has been slightly reversed: on the basis of a total anticipated programme of some \$55.2 million, the estimated net requirements for the TAB secretariat to be met from EPTA resources in 1963 amount to \$4,172,300, or 7.5 per cent. Since it is accepted as desirable that voluntary funds should be utilized to the greatest possible extent for operational purposes, the Advisory Committee would express the hope that the general objective of keeping administrative costs to a minimum will constantly be kept in mind and that every effort will be made to rationalize the over-all administrative pattern with a view to restricting still further the growth of all types of overhead costs.

5. Again this year, the bulk of the increase in expenditure relates to the field establishment, where costs are shared with the Special Fund as shown in the following table:

	<u>Special Fund</u>		<u>TAB</u>		<u>Total</u>	
	<u>\$</u>	<u>Per cent</u>	<u>\$</u>	<u>Per cent</u>	<u>\$</u>	<u>Per cent</u>
1962 .....	771,200	22	2,706,500	78	3,477,700	100
1963 .....	1,504,100 <sup>2/</sup>	32	3,250,400	68	4,754,500	100
Increase						
1962 to 1963 ..	732,900	95	543,900	20	1,276,800	37

6. This increase is due to a number of reasons:

(a) More countries are requesting coverage - This is a point on which the Advisory Committee would recall its comments of last year<sup>3/</sup> to the effect that,

<sup>2/</sup> Subject to approval by the Governing Council of the Special Fund.

<sup>3/</sup> Official Records of the General Assembly, Sixteenth Session, Annexes, agenda item 32, document A/4966, para. 6.

IV. RECOMMENDATIONS OF THE THIRD COMMITTEE

66. The Third Committee therefore recommends the following draft resolutions for adoption by the General Assembly:

A

Convention on Consent to Marriage, Minimum Age for  
Marriage and Registration of Marriages

The General Assembly,

Considering that it is appropriate to conclude under the auspices of the United Nations an international convention on the free consent to marriage, minimum age for marriage and the registration of marriages,

Decides to open the Convention annexed to the present resolution for signature and ratification on 10 December 1962.

Annex

Convention on Consent to Marriage, Minimum Age for  
Marriage and Registration of Marriages

The Contracting States,

Desiring, in conformity with the United Nations Charter, to promote universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Recalling that article 16 of the Universal Declaration of Human Rights states that:

"(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

"(2) Marriage shall be entered into only with the free and full consent of the intending spouses."

Recalling further that the General Assembly of the United Nations declared, by resolution 843 (IX) of 17 December 1954, that certain customs, ancient laws and practices relating to marriage and the family were inconsistent with the principles set forth in the United Nations Charter and in the Universal Declaration of Human Rights,

Reaffirming that all States, including those which have or assume responsibility for the administration of Non-Self-Governing and Trust Territories until their achievement of independence, should take all appropriate measures with a view to abolishing such customs, ancient laws and practices by ensuring, inter alia, complete freedom in the choice of a spouse, eliminating completely child marriages and the betrothal of young girls before the age of puberty, establishing appropriate penalties where necessary and establishing a civil or other register in which all marriages will be recorded,

Hereby agree as hereinafter provided:

#### Article 1

1. No marriage shall be legally entered into without the full and free consent of both parties, such consent to be expressed by them in person after due publicity and in the presence of the authority competent to solemnize the marriage and of witnesses, as prescribed by law.

2. Notwithstanding anything in paragraph 1 above, it shall not be necessary for one of the parties to be present when the competent authority is satisfied that the circumstances are exceptional and that the party has, before a competent authority and in such manner as may be prescribed by law, expressed and not withdrawn consent.

#### Article 2

States parties to the present Convention shall take legislative action to specify a minimum age for marriage. No marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses.

#### Article 3

All marriages shall be registered in an appropriate official register by the competent authority.

Article 4

1. The present Convention shall, until 31 December 1963, be open for signature on behalf of all States Members of the United Nations or any of the specialized agencies, and of any other State invited by the General Assembly of the United Nations to become a party to the Convention.

2. The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 5

1. The present Convention shall be open for accession to all States referred to in paragraph 1 of article 4.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 6

1. The present Convention shall come into force on the ninetieth day following the date of deposit of the eighth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the eighth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day after deposit by such State of its instrument of ratification or accession.

Article 7

1. Any Contracting State may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. The present Convention shall cease to be in force as from the date when the denunciation which reduces the number of parties to less than eight becomes effective.

Article 8

Any dispute which may arise between any two or more Contracting States concerning the interpretation or application of the present Convention which is not settled by negotiation, shall, at the request of all the parties to the dispute, be referred to the International Court of Justice for decision, unless the parties agree to another mode of settlement.

Article 9

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in paragraph 1 of article 4 of the present Convention of the following:

- (a) Signatures and instruments of ratification received in accordance with article 4;
- (b) Instruments of accession received in accordance with article 5;
- (c) The date upon which the Convention enters into force in accordance with article 6;
- (d) Notifications of denunciation received in accordance with paragraph 1 of article 7;
- (e) Abrogation in accordance with paragraph 2 of article 7.

Article 10

1. The present Convention, of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit a certified copy of the Convention to all States Members of the United Nations and to the non-member States contemplated in paragraph 1 of article 4.

B

Draft Recommendation on Consent to Marriage, Minimum Age  
for Marriage and Registration of Marriages

The General Assembly

Requests the Economic and Social Council to ask the Commission on the Status of Women to consider the draft Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages<sup>1/</sup> in the light of the discussions in the General Assembly on the draft Convention on the same subject, and to report back in time for consideration of the draft Recommendation by the General Assembly at its eighteenth session.

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<sup>1/</sup> See Economic and Social Council resolution 821 III B (XXXII) of 19 July 1961.