

COMMISSION ON THE STATUS OF WOMEN

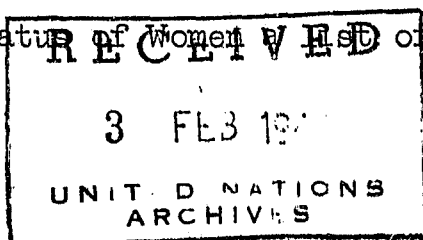
Third session

SUPPLEMENTARY LIST OF QUESTIONS ON NATIONALITY AND DOMICILE
AS THEY AFFECT THE STATUS OF MARRIED PERSONS

Memorandum by the Secretariat

1. In its resolution on nationality (paragraph 18 of the report of the second session of the Commission on the Status of Women - document E/615), the Commission recommended that the Economic and Social Council instruct the Secretary-General, inter alia, "(a) to obtain from all Member States an account of their present laws and administrative practices in the fields of nationality, domicile, marriage and divorce insofar as they affect women married or formerly married to husbands of a different nationality, and the anomalies arising therefrom, and as they affect children born to parents of different nationalities; to prepare a report thereon for the next session of the Commission; and to report on existing treaties and conventions in the field of nationality and the signatories thereof".
2. In its resolution 154 C (VII) of 20 August 1948, the Economic and Social Council decided to request the Secretary-General, inter alia, to prepare for the consideration of the Commission at its third session.... "(ii) a list of questions designed to elicit any further information which, after an examination of the replies of Governments, may be found to be required by the terms of the Commission's resolution on nationality."
3. The Secretary-General has considered the replies of Member States to part I, section G of the questionnaire E/CN.6/W.1 on the legal status and treatment of women and presented a report on it in document E/CN.6/82.

He herewith presents for the consideration of the Commission on the Status of Women a list of questions preceded by an introductory note.



LEGAL STATUS AND TREATMENT OF WOMEN

SUPPLEMENTARY LIST OF QUESTIONS ON NATIONALITY AND DOMICILE
AS THEY AFFECT THE STATUS OF MARRIED PERSONS

INTRODUCTORY NOTE

For the purposes of this questionnaire, the word "nationality" designates the link between an individual and a country, irrespective of his place of birth, ancestry, and political rights.

The word "domicile" has been taken to mean the criterion, based on physical residence and intention to remain permanently, used in some countries to determine the law applicable to an individual in matters of conflicts of laws.

SUGGESTED SUPPLEMENTARY LIST OF QUESTIONS

I. System Governing Personal Status

1. Which law governs the right to marry - the law of the nationality or the law of the domicile of the intending spouses ((a) of the bridegroom, (b) of the bride, or (c) of both)? Or is the right to marry governed by the law of the place of the celebration of the marriage or any other law?
2. Which law governs the matrimonial relationship - the law of the nationality or the law of the domicile of (a) the husband, (b) the wife, or (c) both? Or is the relationship governed by any other law?
3. Which law governs the dissolution of marriage or the separation of the spouses - the law of the nationality or the law of the domicile of (a) the husband, (b) the wife, or (c) both? Or does some other system apply, e.g. the law of the forum?

II. Effect of Nationality on Marriage

Does the nationality of the future spouses affect their right to marry and, if so, in what way?

III. Effect of Marriage on Domicile*

If in your country personal status is governed by domicile:**

1. What effect, if any, has marriage as such on the domicile of the spouses?
2. In particular, is, in the contemplation of the law, the wife deemed to have always the same domicile as the husband?

* The corresponding question "Effect of marriage on nationality" is covered by Section G of the Questionnaire E/CN.6/W.1.

** No reply to this question is requested from governments of countries under whose private international law (conflict of law rules) personal status is governed by nationality not by domicile.

IV. Jurisdiction

Under which conditions do the courts of your country assume jurisdiction in matters of (a) nullity, (b) divorce, (c) separation, (d) other matrimonial causes if the spouses, or one of them, is

1. an alien, or
2. a person domiciled abroad?*

V. Status of Children

What does the law provide concerning the domicile of children if the parents have different domiciles?*

* No reply to this question is requested from governments of countries under whose private international law, (conflict of law rules) personal status is governed by nationality not by domicile.