



**UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL**



Distr.
GENERAL

E/CN.6/573
6 November 1973

ORIGINAL: ENGLISH

COMMISSION ON THE STATUS OF WOMEN
Twenty-fifth session
Item 4 (b) of the provisional agenda

INTERNATIONAL INSTRUMENTS AND NATIONAL STANDARDS
RELATING TO THE STATUS OF WOMEN

CONSIDERATION OF PROPOSALS CONCERNING A NEW INSTRUMENT
OR INSTRUMENTS OF INTERNATIONAL LAW TO ELIMINATE
DISCRIMINATION AGAINST WOMEN

Working paper by the Secretary-General

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
INTRODUCTION		
1. Origin of the working paper	1 - 3	4
2. Election of the Working Group	4 - 6	5
3. Nature of the working paper	7 - 8	5
 <u>Chapter</u>		
I. GENERAL OBSERVATIONS OF GOVERNMENTS	9 - 16	7
1. Observations relating to existing instruments	9 - 14	7
2. Observations on the present <u>de facto</u> situation concerning discrimination against women	15 - 16	8
II. OBSERVATIONS ON THE NEED FOR A NEW INSTRUMENT OR INSTRUMENTS	17 - 35	9
1. Arguments in favour of a single comprehensive convention	18 - 26	9
2. Arguments opposing a single comprehensive convention	27 - 34	10
3. Suggestions concerning provisions prohibiting discrimination against women in specific fields	35	12
III. OBSERVATIONS AND SUGGESTIONS CONCERNING THE NATURE, STRUCTURE AND GENERAL PROVISIONS OF A SINGLE COMPREHENSIVE CONVENTION	36 - 61	13
1. The basic approach to such a convention	36 - 41	13
2. Suggestions concerning the structure of the convention	42 - 43	14
3. Suggestions concerning the preamble, definition of discrimination against women and general provisions	44 - 56	14
4. The relation between the single comprehensive convention and the existing conventions	57 - 61	16
IV. OBSERVATIONS AND SUGGESTIONS CONCERNING THE SUBSTANTIVE PROVISIONS OF A NEW INSTRUMENT OR INSTRUMENTS	62 - 99	18
1. Observations and suggestions concerning the substantive provisions of a comprehensive convention	64 - 90	18

/...

CONTENTS (continued)

	<u>Paragraphs</u>	<u>Page</u>
B. Observations and suggestions concerning fields of discrimination that might be regulated by specific conventions	91 - 99	25
V. OBSERVATIONS AND SUGGESTIONS FOR MEASURES OF INTERNATIONAL IMPLEMENTATION	100 - 111	29
VI. OBSERVATIONS AND SUGGESTIONS CONCERNING FINAL CLAUSES	112 - 114	31
VII. QUESTIONS ON WHICH THE WORKING GROUP AND THE COMMISSION MAY WISH TO MAKE RECOMMENDATIONS	115 - 126	32

Annexes

- I. TEXT OF THE DRAFT CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN PROPOSED BY THE PHILIPPINES
- II. EXAMPLES OF PROVISIONS IN UNITED NATIONS CONVENTIONS REGULATING THE RELATIONSHIP OF NEW CONVENTIONS TO EXISTING ONES
- III. SUMMARY OF MEASURES OF IMPLEMENTATION PROVIDED BY EXISTING UNITED NATIONS INSTRUMENTS IN THE FIELD OF HUMAN RIGHTS

INTRODUCTION

1. Origin of the working paper

1. In its resolution 5 (XXIV) of 24 February 1972 ^{1/} the Commission on the Status of Women invited the Secretary-General to call upon the States Members of the United Nations to transmit their views or proposals concerning the nature and content of a new instrument or instruments of international law to eliminate discrimination against women and to prepare a working paper taking into account the replies of Governments. The Commission further decided, in order to facilitate this work, to establish a working group which was to meet five days before the twenty-fifth session of the Commission and "begin work on the preparation of a new draft instrument or instruments in the light of Governments' replies and of the Secretary-General's report".

2. The Commission was moved to adopt resolution 5 (XXIV) by its desire to give effect to the principles set forth in the Declaration on the Elimination of Discrimination against Women and to ensure the speedy adoption of the necessary practical measures for that purpose. It had regard to the fact that at the twenty-fourth session there had not been enough time to study the Secretary-General's report entitled: "Study of provisions in existing conventions that relate to the status of women" (E/CN.6/552), which might provide valuable information on the degree to which the equality of women with men was guaranteed in existing international instruments. The Commission considered nevertheless that, to judge by present conditions, existing international instruments relating to the status of women were not adequate in all respects, and expressed the conviction that it was desirable to adopt a new international instrument or instruments designed to eliminate discrimination against women.

3. Among the issues discussed prior to the adoption of resolution 5 (XXIV) were the following: (a) whether the preparation of a new instrument was desirable at the present time; (b) the relationship between the new instrument and existing instruments; and (c) whether the preparation of one or of several new instruments should be considered, the latter questions being the subject of a vote in the Commission. An amendment to add the words "or instruments" after the words "new international instrument" in the last preambular paragraph of resolution 5 (XXIV) was adopted by 16 votes to 5, with 7 abstentions. ^{2/} As a consequence, it was agreed that it was unnecessary to vote separately on the insertion of the words "or instruments" in paragraph 2 of the resolution. Resolution 5 (XXIV) as a whole was adopted by 27 votes to none, with 1 abstention. ^{3/}

^{1/} Official Records of the Economic and Social Council. Fifty-second Session. Supplement No. 6, chap. VIII, sect. A, para. 240.

^{2/} Ibid., chap. II, para. 77.

^{3/} Ibid., chap. II, para. 78.

2. Election of the Working Group

4. The Commission agreed at its twenty-fourth session that the Working Group should be composed of 13 to 15 of its members appointed by the Economic and Social Council in 1973, with due regard to the principle of equitable geographical distribution. ^{4/}

5. At its 1856th meeting, on 17 May 1973, the Council, bearing in mind resolution 1147 (LI) of 4 August 1966 concerning the composition of its functional commissions, decided to enlarge the membership of the Working Group to 16, distributed according to the following pattern:

- 4 members from African States;
- 3 members from Asian States;
- 3 members from Latin American States;
- 4 members from Western European and other States; and
- 2 members from socialist States of Eastern Europe.

6. At its 1856th and 1877th meetings the Council elected the following 15 members to the Group: Canada, Chile, Colombia, Dominican Republic, Egypt, Finland, Hungary, Indonesia, Liberia, Nigeria, Philippines, USSR, United Kingdom of Great Britain and Northern Ireland, United States of America and Zaire. The election of the sixteenth member (to be chosen from among the Asian States) was postponed to the Council's resumed session on 15 to 18 October 1973. At the 1885th meeting, on 18 October 1973, no candidate was submitted for the vacancy and no sixteenth member was therefore elected.

3. Nature of the working paper

7. As requested, the Secretary-General has taken into account in preparing the present working paper, the replies received from Governments. As of 30 September 1973, the following had answered: Austria, Barbados, Belgium, Brazil, Bulgaria, Byelorussian SSR, Canada, Central African Republic, Czechoslovakia, Egypt, Finland, France, Guyana, Hungary, Iraq, Italy, Khmer Republic, Kuwait, Luxembourg, Netherlands, Philippines, Poland, Sierra Leone, Spain, Sweden, Ukrainian SSR, USSR, United Kingdom of Great Britain and Northern Ireland. The full text of these replies has not been reproduced in the working paper, but may be consulted in the United Nations Secretariat.

8. The working paper consists for the most part of an analysis of the replies received. Chapter I summarizes general comments of Governments relating especially to existing international instruments, and to the present de facto

^{4/} Ibid., chap. III, para. 101.

situation concerning discrimination against women. Chapter II analyses the differing views concerning the need for: (a) a new comprehensive convention to eliminate discrimination against women; or (b) one or more conventions dealing with discrimination in specific fields. Chapter III outlines the observations and suggestions concerning the nature, structure and the provisions of a general character that might be included in a comprehensive convention. Chapter IV deals with the substantive provisions of a new instrument or instruments and covers, in separate sections, both types of convention. Chapter V concerns measures of international implementation and touches on the question of competing international procedures. Chapter VI relates to the final clauses of a new instrument. In order to assist the Working Group and the Commission, chapter VII lists those questions on which decisions are required, and on which recommendations might be made. In addition, the working paper contains three annexes: the text of a draft convention proposed by the Philippines (annex I); examples of provisions in United Nations conventions aimed at the avoidance of competing international procedures (annex II); and a summary of measures of implementation provided by existing United Nations instruments in the field of human rights (annex III).

I. GENERAL OBSERVATIONS OF GOVERNMENTS

1. Observations relating to existing instruments

9. Many Governments, in their replies (and also in the discussions in the Commission on the Status of Women) emphasize the fact that there are already in existence a number of international instruments aimed at the elimination of discrimination against women. Frequent reference is made to the Declaration on the Elimination of Discrimination against Women of 1967. Those Governments which have expressed a view on the legal character of the Declaration, with one exception, state that the Declaration is not legally binding on States although they stress its moral force. ^{5/} The Netherlands, on the other hand, states that the Declaration "is of great moral and, to a certain extent also legal significance".

10. In their comments on the existing conventions, some Governments present suggestions for their modification. These are dealt with from the substantive point of view in chapter IV below. In the present context it is appropriate to record only the following statements concerning the status of existing instruments and general areas where it is suggested that they might be improved.

11. Bulgaria points out that, on the strength of the texts of the provisions of the conventions which have come into being under the auspices of the United Nations, the International Labour Organisation and UNESCO, one would assume that "from a juridical point of view women today enjoy equal rights with men in the political, economic, cultural and other fields of life". However, the Government notes that a document such as the Convention on the Political Rights of Women has as yet been ratified by only one half of the States Members of the United Nations, and considers that the Commission on the Status of Women should appeal to all countries to speed up the ratification of the conventions related to the rights of women. Other Governments also stress the need for more ratifications of existing conventions (Italy, Philippines and Sweden). Sweden urges the Commission on the Status of Women to do everything within its power to ensure that as many States as possible ratify the International Covenants on Human Rights.

12. In Canada's view, the proliferation of existing instruments of law, while entirely necessary for the various fields covered by their provisions, creates certain problems when they are considered in relation to women's rights. The conventions overlap in their treatment of certain areas and, as a result, there are differences in obligations and in implementation procedures, as well as in formal structure.

^{5/} Austria ("a moral obligation"); Finland ("valuable moral support ... it does not oblige the Member States to take any concrete measures"); Hungary ("a highly significant instrument ... imposes no obligations under international law"); Poland ("only moral force"); Philippines ("the Declaration ... though desirable for its flexibility, has only a very limited moral persuasive influence on States").

13. Finland, Hungary, Italy and USSR all recommend that existing conventions should be reviewed and amended in certain respects. Finland, for example, suggests that article 2 of the UNESCO Convention against Discrimination in Education of 1960 requires modification in its reference to the maintenance of separate educational systems or institutions for pupils of the two sexes (see chapter IV, para. 81 below). Hungary considers that a number of existing conventions call for improvement, mainly among the International Labour Conventions. Italy believes that a better balance is needed in these conventions between measures provided for the protection of working women and those which relate to their equality with other workers. The USSR is of the view that many existing provisions adopted both by the United Nations and the ILO are now out of date. Canada, on the other hand, emphasizes that, in its view, the International Labour Conventions have proved on the whole to be effective and respected instruments of social justice.

14. Brazil and Finland specifically recommend that the Working Group should examine the existing conventions on the basis of the Secretary-General's report (E/CN.6/552). Finland suggests further that the Group should examine means of intensifying their effectiveness. Sweden considers that the Group should be commissioned to investigate matters which have not been made subject of international control, and draw up concrete proposals concerning areas to be dealt with by new instruments.

2. Observations on the present de facto situation concerning discrimination against women

15. In considering the need for new instruments dealing with women's rights, several Governments stress that discrimination persists in this field despite the progress that has been made. Bulgaria, for example, emphasizes that ratifications of international conventions and the enactment of national legislation do not necessarily guarantee women's rights; research undertaken by the specialized agencies proves that in a number of cases open and direct discrimination has been replaced by more refined forms of discrimination (e.g., in the field of labour relations). Poland notes that while the status of women throughout the world has advanced to a great extent during the past 25 years, there are still numerous occurrences of discrimination against women, and new instruments of international law are needed to ensure the full participation of women in all spheres of national development.

16. Italy considers as an established fact the persistence of real or de facto discrimination and the more general phenomenon of the difficulties still met by the acceptance of the principle of the equality of the sexes in terms of "equality of skills" and, consequently, of the possibility of women undertaking tasks traditionally entrusted to men. Inequality of the sexes is, in fact, still "part of the idealized heritage of a large part of public opinion which sees in this nothing that is odious or persecutory", while discrimination based on other differences such as race and religion is not considered permissible.

/...

II. OBSERVATIONS ON THE NEED FOR A NEW INSTRUMENT OR INSTRUMENTS

17. Among the Governments which have replied, some favour a single comprehensive convention, others prefer separate conventions regulating discrimination in specific fields while others suggest that both types of conventions are needed. These various views are summarized below.

1. Arguments in favour of a single comprehensive convention

18. Bulgaria, Byelorussian SSR, Canada, Czechoslovakia, Egypt, Netherlands, Hungary, Italy, Khmer Republic, Philippines, Poland, Ukrainian SSR and USSR are expressly in favour of a comprehensive convention. In addition, Brazil, Guyana and Spain indicate that they support the preparation of a new convention, but they do not indicate specifically a preference for a comprehensive or other type of convention.

19. Some Governments indicate their support or preference for a single, comprehensive convention in general terms (Cambodia, Egypt, Hungary, USSR) while others give supporting arguments or explanations, supplementing what is said in chapter I above about the need to improve existing conventions, and about the de facto situation concerning discrimination against women.

20. The Byelorussian SSR, for example, considers that a single instrument, with the title "Convention on the elimination of discrimination against women" is necessary, not only in view of the importance of the questions but also because there has long been a need for the adoption of rules of international law that would enter into force immediately, and achieve the speedy elimination of all manifestations of inequality based on distinctions as to sex.

21. In the view of Poland there is a need for a legally binding international convention on the elimination of discrimination against women which would cover all aspects of the status of women, and also for conventions covering certain fields where discrimination against women continues to exist. Priority should, however, be given to the preparation of a single comprehensive convention.

22. The Ukrainian SSR is of the opinion that an international instrument could become an effective tool for the achievement of the goals proclaimed in the United Nations Charter and other international legal instruments, provided it covered the entire complex of rights connected with the guarantee of the equality of women.

23. The Philippines is of the view that the only way to make States legally bound to take action on the national level towards the elimination of discrimination against women is by way of an international convention. The Government feels that a single comprehensive convention should be prepared which would provide for all possible legislative and practical measures to ensure that women are fully protected from discrimination in all spheres of life.

24. Italy is of the opinion that the devising of a convention of a general nature and its adoption by the General Assembly could hasten the process of the improvement of the status of women in many countries and give it a more decisive direction. Moreover, the Government feels that women themselves should with greater urgency become aware of their rights not to be discriminated against. Nevertheless, it considers that priority should be given to the devising of more specific new instruments which would integrate and improve those in existence. In this case, however, care should be taken in the future, not to jeopardize the preparation of a measure of a general nature and to consider the devising of new instruments as an intermediate and preparatory phase of a general convention.

25. Canada believes that the need for new instruments is apparent; the question whether one or several is less immediately answerable. The promotional value of one single easily identified and recognized convention is considerable. Further, it would facilitate the definition of the new convention's relation to those already in existence, given that several problems with implementation, procedures and standards are already encountered. The Government suggests that in preparing a single convention, its political and promotional value should be taken into account, as well as the field for wider implementation it would open up.

26. The Netherlands believes that, considering the large number of international conventions whose primary or secondary object is to counter discrimination against women, and taking into account the Declaration of 1967, there are no cogent legal arguments for enlarging the international network of legal obligations. It considers that none the less there are two main arguments in favour of drafting an international convention, which would in a way become a complement of the Declaration. These reasons concern the political and the promotional value, respectively, of such a new international instrument as well as the field for wider implementation it would open up.

2. Arguments opposing a single comprehensive convention

27. Austria, Belgium, Finland, France, Kuwait and Sweden are not in favour of a single comprehensive convention, although they are not opposed to separate conventions dealing with specific fields of discrimination. Their reasons for opposing a single convention differ.

28. Austria notes that a declaration, due to its comprehensive character, can take account of the varying standards in the individual Member States of the United Nations, whereas a convention would exclude that possibility. A convention would have to limit itself in its contents to the smallest common denominator in order to guarantee the largest possible number of parties to it. The contribution such an instrument could make towards the elimination of discrimination against women would in the Austrian Government's view be a minor one. Further, it considers that a number of already existing conventions of the United Nations, the International Labour Organisation and the United Nations Economic and Social Council deal in detail with some of the principles contained in the Declaration, and additional conventions with identical or similar contents would therefore be redundant.

/...

29. Austria also expresses the opinion that, in the case of a parallel existence of several international instruments, the responsibilities of controlling the implementation of the individual conventions would be distributed among various international organizations, thus resulting in overlapping detrimental to the application of the rules. A comparison of the existing international conventions with the individual articles of the Declaration makes it evident that only article 6 of the Declaration regarding the assurances of equal rights of women in marriage and the family contains principles which have not yet found a normative regulation on the international level in a convention. The Government also raises the question whether the objective, to achieve equality between men and women as well as to eliminate discrimination on the grounds of sex, would not be better served through regional agreements. Such agreements would supplement the Declaration with appropriate regional conventions aimed at improving the status of women in countries with similar conditions.

30. Belgium considers that it is not desirable to collect in a single binding text the various subjects contained in the Declaration of 1967, which affect private law as well as social, constitutional and administrative law. The economic and social rights set forth in article 10 of the Declaration appear in various ILO Conventions which are flexible instruments and can be periodically revised, or, if appropriate, completed. It would be more rational at this time to implement the provisions of the existing Conventions.

31. Finland considers that a single convention containing all the provisions prohibiting unequal treatment of women would be very extensive and incoherent, a fact which would not encourage Governments to ratify it speedily. In any case, the supervision of the implementation of such an extensive convention would have to be entrusted to several authorities as if it were composed of several separate instruments with a reduced scope of application. Since Governments have different priorities in ensuring women equal rights with men, to encompass these in a single convention might retard the realization of partial reforms. It is to be expected that Member States would not ratify the proposed convention if effect could only be given to some of its objectives, and if provisions for partial ratification were not included in the final articles of such a convention.

32. France believes that it is appropriate to apply conscientiously the existing international instruments rather than contemplate the elaboration of new ones.

33. Kuwait is of the opinion that States which practise discrimination are reluctant to ratify or accede to conventions which contain measures of implementation. The Government notes, for example, that few, if any, of the States which practise racial discrimination have become parties to the Convention on the Elimination of All Forms of Racial Discrimination. It doubts the usefulness of elaborating a general convention on the elimination of discrimination against women as long as adherence to such conventions is optional.

34. Sweden holds the view that the most urgent task would appear to be the consideration of those issues that have not yet been made subject to international control. The Government is more doubtful regarding the value of a general convention on discrimination against women.

3. Suggestions concerning provisions prohibiting discrimination against women in specific fields

35. Both Governments which favour a single comprehensive convention and those which oppose its preparation have made suggestions and proposals for regulating specific fields in which discrimination against women occurs. These are given in detail in chapter IV below. It may be noted here that the suggestion and proposals made cover all the rights recognized in the Declaration of 1967 (and especially those set forth in articles 6 and 10) and also rights and other matters that are not covered by that instrument. These include: the rights of the child; the legal status of children born out of wedlock; assistance for parents with family responsibilities; questions pertaining to family planning; and the protection of women and children in emergency and armed conflict.

III. OBSERVATIONS AND SUGGESTIONS CONCERNING THE NATURE, STRUCTURE
AND GENERAL PROVISIONS OF A SINGLE COMPREHENSIVE CONVENTION.

1. The basic approach to such a convention

36. The Governments of Byelorussian SSR, Czechoslovakia, Philippines, Ukrainian SSR and USSR include in their comments some general views on the basic approach to be followed in drafting a single, comprehensive convention.
37. The Byelorussian SSR considers that, in addition to including the most important substantive provisions designed to eliminate discrimination against women, the convention could also require States: (a) to introduce into their legislation, without delay, appropriate legal protection for women; (b) to spell out the equality of the sexes in their constitutions; and (c) to repeal any existing laws which directly or indirectly limit the equal rights of women and men. The convention should also provide the appropriate guarantees for the practical implementation of equal rights for women and men.
38. Czechoslovakia believes that further international documents should pay special attention to measures of a social and economic nature that would make it possible for the woman, especially the woman with children, to achieve actual equality.
39. The Philippines suggests that the proposed instrument be patterned after the Declaration on the Elimination of Discrimination against Women, in the same manner that the International Convention on the Elimination of All Forms of Racial Discrimination was adopted as a follow-up convention to the Declaration on the Elimination of All Forms of Racial Discrimination. The fact that the Declaration of 1967 has already undergone study and comparison with existing international conventions, facilitates the determination of any substantive omission or inadequacy which the convention might easily remedy. The Philippines presents the text of a draft convention which is reproduced in annex I, while its various provisions are analysed in the later sections of this paper.
40. The Ukrainian SSR is of the view that the convention should take into account the most progressive national legislation with respect to the political, social, economic, civil and family rights of women as well as the achievements in ensuring the realization of women's rights in all aspects of life.
41. The USSR believes that the size of the convention should be limited, and excessively detailed and specific provisions should be avoided. The aim should be to include the fundamental aspects of women's rights and not simply to enumerate unco-ordinated provisions relating to the status of women which have already been adopted by the United Nations and the International Labour Organisation.

2. Suggestions concerning the structure of the convention

42. The structure of the single convention proposed by the Philippines follows that of the Declaration of 1967, except that international measures of implementation are also contemplated similar to those included in the International Covenant on Economic, Social and Cultural Rights. No specific texts of such measures have, however, been proposed.

43. The Ukrainian SSR and USSR suggest that the convention be divided into specific sections. The former suggests heading such as "General provisions", "Political rights", "Social and economic rights" and "Civil and family rights", while the USSR also proposes the inclusion of a preamble.

3. Suggestions concerning the preamble, definition of discrimination against women and general provisions

Preamble

44. The USSR suggest that the preamble should emphasize that the general development and prosperity of all countries require the creation of the necessary conditions to enable women to play a full part in all spheres of state and local life, and that the scientific and technological revolution is increasing the possibilities of employing female workers. It should also underline the contribution made by women to the establishment of the material and spiritual values of society, the social importance of motherhood and the role of women in the family, especially in bringing up children. It might also be useful to refer to the relevant provisions of the United Nations Charter, the Universal Declaration of Human Rights and the International Covenants on Human Rights.

Definition of the term discrimination against women

45. The Philippines proposes a definition of the term discrimination against women which is parallel to the definition of "racial discrimination" set forth in the International Convention on the Elimination of All Forms of Racial Discrimination, and to that used in the Advisory Opinion of the International Court of Justice of 21 June 1971 on the Legal Consequences for States of the Continued Presence of South Africa in Namibia (See annex I, article 1).

46. The USSR states that it would be appropriate to define the notion of discrimination against women as "direct or indirect denial or limitation of the equality of the rights of women with those of men or the granting of direct or indirect advantage or privileges to men which have the effect of nullifying or impairing equality of opportunity in any sphere of social or family life".

47. Sweden considers that a definition should be included in any future convention concerning discrimination against women. In the meantime what should be regarded as a violation of the principles of equality between men and women might be established by resorting to definitions in other instruments (e.g., the International Convention on the Elimination of All Forms of Racial Discrimination).

General provisions (articles 2 and 3 of the Declaration; E/CN.6/552, paras. 23 to 38)

48. The basic general principle of the Declaration of 1967 is proclaimed in article 2 which states that all appropriate measures shall be taken to abolish existing laws, customs, regulations and practices which are discriminatory against women, and to establish adequate legal protection for equal rights of men and women. Various Governments which support a single general convention suggest provisions that would give the force of legally binding international obligations to the above principle.
49. The Byelorussian SSR proposes that the convention should require States to introduce into their legislation the most important material provisions designed to eliminate discrimination against women and to give them the same rights as men.
50. The Ukrainian SSR believes that the convention should include specific undertakings by States to adopt legislative, administrative, social, economic and other measures guaranteeing the realization of the rights proclaimed in the text.
51. The USSR states that the convention should contain a provision regarding the obligation of Member States: (a) to prevent, prohibit and eliminate in their territories any practice having a discriminatory effect with respect to women; (b) to take all necessary measures to provide proper legal protection for the equality of rights of women with men, and, in particular, to include the principle of the equality of rights of the sexes in constitutions and laws; (c) to repeal laws designed to discriminate against women and limiting the rights of women in comparison with those of men; and (d) to enact laws prohibiting discrimination against women and providing for penalties in the event of violation of that principle.
52. The USSR suggests the inclusion of a separate provision regarding the enactment of laws concerning the establishment of the necessary state institutions to ensure the protection of the mother and child, with a view to guaranteeing women real opportunities to combine successfully their obligations as mothers with their participation in all aspects of the life of the country.
53. Hungary emphasizes that the convention must ensure that in all spheres of human rights, women enjoy full equality of rights.
54. In its proposed draft convention, the Philippines includes a provision, which corresponds to and includes the substance of article 2 of the Declaration of 1967, but adds a number of new elements (see annex I, article 2). Under this article, States Parties, for example, would undertake to pursue with all appropriate means and without delay a policy of eliminating discrimination against women as well as assume other obligations to this end. The Government points out that the article is worded in such a way that measures other than legislative may be used to abolish discriminatory laws and practices and that legislative measures may be properly used not only to establish adequate legal protection for equal rights of men and women but also to give effect to the rights recognized in the convention, where existing legislative or other measures are not sufficient for this purpose. The draft article is worded in rather general terms, so that discriminatory customs and practices, although unspecified, may be covered.
55. The Philippines draft convention includes also a new and separate article setting forth a specific obligation of States Parties to undertake concrete measures in the social, economic, cultural and other fields, to ensure the adequate development and advancement of women (see annex I, article 3).

56. Article 3 of the Declaration of 1967, stresses the importance of the education of public opinion in the eradication of prejudice and the abolition of practices based on the idea of the inferiority of women. Canada stresses the importance of dealing with the education of the general public in any new convention adopted. This principle also finds its place in the Philippine text (see annex I, article 4). The article suggested is patterned after both the Declaration of 1967 and the International Convention on the Elimination of All Forms of Racial Discrimination. A provision specifically prohibiting incitement to discrimination against women has also been added. Sweden, however, considers it inappropriate to prohibit expressly in a convention utterances that constitute incitement to discrimination, partly because of the difficulty of demarcating the punishable area, and partly because such a prohibition would encroach upon freedom of speech and have undesirable consequences on free debate in society.

4. The relation between the single comprehensive convention and the existing conventions

57. Several Governments raise questions concerning the relation of the proposed new single comprehensive convention and the existing conventions, especially those of the ILO and UNESCO. Several stress the need to avoid duplication of effort and the establishment of competing international procedures of implementation (see also chapter V below).

58. Canada suggests that, in order that the ILO standards not be eroded, it is important that they be given a special status within the body of the proposed new instrument. This might be effected by giving the ILO Conventions a priority similar to that of the new instrument in relation to the International Covenants on Human Rights. The new convention should take general precedence over existing conventions; the existing conventions should remain in force among States not Party to the new convention and between States Party to the new convention and States Party only to the existing conventions. Thus, by becoming a party to the new convention a State Party to the existing conventions would not be relinquishing any rights with respect to States that do not become parties to the new comprehensive convention. Canada further suggests that priority shall continue to be given to conventions covering particular rights in more detail or more favourably.

59. Finally, although in Canada's view the new convention should be an "umbrella agreement", embodying a set of agreed objectives and creating machinery for investigation of breaches, it could also contain provisions protecting specific rights which are not covered, or not covered adequately, in existing conventions.

60. Hungary refers to the conventions established within the framework of the ILO and UNESCO which are aimed at the elimination of discrimination against women in particular fields, and which contain probably more detailed rules than a single convention will cover. It therefore suggests that the new single convention ought to specify that its provisions do not impair the force of those provisions of earlier conventions whose rules go beyond the provisions of the new convention.

The Government considers that the Working Group and the Commission should prepare the draft of a new single convention and take a stand for the modification of existing conventions. Sweden, on the other hand, while in general doubtful of the value of a general convention, considers it important in this context that the Commission on the Status of Women should not deal with issues falling within the sphere of the ILO's activities.

61. From the draft convention presented by the Philippines, it appears that it is that Government's intention that the proposed new comprehensive convention should be additional to the existing conventions. Under the terms of article 2, States Parties to the new convention would undertake to ratify or accede to and fully implement the existing international instruments. Moreover, the Philippine draft convention has been worded so as not to have it encroach on areas already adequately covered by other international conventions, and vice versa.

IV. OBSERVATIONS AND SUGGESTIONS CONCERNING THE SUBSTANTIVE PROVISIONS OF A NEW INSTRUMENT OR INSTRUMENTS

62. A number of Governments have made comments and suggestions relating to the rights or groups of rights they wish to see included in a new instrument or instruments of international law to eliminate discrimination against women. This chapter, which analyses those comments and suggestions, is divided into two parts: part A includes comments and suggestions relating primarily to a single comprehensive convention, although the Governments have not always clearly indicated their preferences in this respect; part B includes comments and suggestions relating to separate conventions in specific fields, where this is the stated intention of the Government concerned. Cross-references have been made, where appropriate.

63. It may also be noted that some Governments, which have indicated their preference for conventions in specific fields rather than a single comprehensive convention, also make comments and suggestions which are relevant to the latter type of instrument. These have been included in part A of the present chapter.

A. Observations and suggestions concerning the substantive provisions of a comprehensive convention

Political rights (article 4 of the Declaration: E/CN.6/552, paras. 39 to 42)

64. In its suggested draft convention, the Philippines proposes, with practically no substantive change, the text of article 4 of the Declaration of 1967. The Government finds this wording more comprehensive than that of the Convention on the Political Rights of Women and considers that it complements article 25 of the International Covenant on Civil and Political Rights (for the Philippine draft, see annex I, article 5).

65. The Byelorussian SSR suggests that the new convention should include provisions "obliging States to embody in their legislation the right of women to vote and to be elected to any central or local representative state organ, and, accordingly, to hold any office, including the highest in the state administration".

66. The USSR suggests the inclusion of provisions "guaranteeing women the opportunity to take part in the political and social life of the country on equal terms with men, without any discrimination, and in particular to vote or to be eligible for elections to any central or local representative state organ or public organization and to hold any office in the state apparatus".

Nationality (article 5 of the Declaration; E/CN.6/552, paras. 43 to 50)

67. The Philippines proposal on nationality (see annex I, article 6) follows article 5 of the Declaration of 1967 with two additions: (a) the inclusion of a provision, based on article 1 of the Convention on the Nationality of Married Women, to make express mention of the fact that the nationality of the wife should not be automatically affected by marriage, nor by the dissolution of marriage and the change of nationality of the husband (annex I, article 6, para. 2); and (b) the inclusion of a provision establishing the equal rights of men and women to transmit their nationality to their children (annex I, article 6, para. 2). The Government, noting that the Declaration of 1967 does not contain a provision to this effect, refers to the Convention on the Reduction of Statelessness of 1961 which regulates this principle only to some extent. Article 1 (3) of that Convention provides that a child born in wedlock in the territory of a Contracting State whose mother has the nationality of that State, shall acquire at birth that nationality if it otherwise would be stateless. The principle of equality of men and women in transmitting their nationality to their children has not been regulated in existing instruments.

68. The Philippines states further that the matter of a woman's being given a privileged position in naturalization proceedings for the acquisition of her husband's nationality is amply covered by article 3 of the Convention on the Nationality of Married Women. This provides that: "each Contracting State agrees that the alien wife of one of its nationals may, at her request, acquire the nationality of her husband through specially privileged naturalization procedures". Neither the Declaration of 1967 nor the Philippines draft convention deals with this question.

69. Guyana, however, proposes that the principle of acquiring nationality on marriage, which is applicable to women under the 1957 Convention on the Nationality of Married Women, should be made applicable to men.

Equal rights of men and women in the field of civil law and relating to marriage, prohibition of child marriage and the betrothal of young girls (article 6 of the Declaration; E/CN.6/552, paras. 51 to 79)

70. Governments among those which replied consider that some or all of the principles set forth in article 6 of the Declaration of 1967 should be regulated by an international convention (Austria, Belgium, Byelorussian SSR, Czechoslovakia, Egypt, Finland, Guyana, Hungary, Philippines, Poland, Spain, Sweden and USSR). Austria, Belgium and Sweden recommend specific conventions in this field, and their suggestions are dealt with in detail in part B of this chapter. Poland considers that specific conventions in certain of these fields are required in addition to a provision in a single comprehensive convention (see paragraph 93 below). Finland comments on article 6 of the Declaration of 1967 and Guyana and Spain favour provisions dealing with these fields but do not indicate a preference for a single convention or specific conventions: their comments are included, where appropriate, in the present section.

71. Among those Governments which favour a comprehensive convention only the Philippines proposes a specific text dealing with civil law and related questions (see annex I, article 7). This is based on article 6 of the Declaration of 1967, but incorporates modifications concerning:

- (a) The clause relating to the movement of persons set forth in paragraph 1 (c) of article 6 of the Declaration. The addition of a provision is proposed aimed at securing for women the same rights as men regarding freedom to choose their residence and freedom to leave the country (see annex I, article 7, paragraph 1 (c)). The background of the problem involved here is recorded in paragraphs 61 to 64 of E/CN.6/552;
- (b) The provisions governing equality of status of husband and wife set forth in paragraph 2 of article 6 of the Declaration. Three additions are proposed as follows:
 - (i) a clause had been inserted specifically mentioning that women have the same right as men to enter the marriage state (annex I, article 7, para. 2 (a)). The Government considers that the right of women to marry is only implied in the Declaration, and believes the additional provision is desirable "so that women in the professions may find some remedy in law where they are constrained to remain single";
 - (ii) the phrase "and duties" has been added to the provision governing the equal rights of men and women during marriage and at its dissolution (annex I, article 7, para. 2 (c));
 - (iii) the clause governing the equal rights and duties of parents in matters relating to their children provides for an exception in cases where the mother exercises full parental authority over her child born out of wedlock (annex I, article 7, para. 2 (d)). The Government explains that this addition is intended to safeguard the mother and the child born out of wedlock from intrusions by the child's father where the latter has not acknowledged paternity.

72. The Byelorussian SSR and USSR give general suggestions for an article which also contains elements not included in article 5 of the Declaration of 1967. The Byelorussian SSR suggests a provision concerning the adoption by States of legislative measures to ensure to women equal rights with men in the field of civil law, and in particular the right to acquire, dispose of and inherit property, the right to equality in legal capacity, the right to free choice of a spouse, professions, occupation and domicile, equal rights at the dissolution of marriage, and equal rights and responsibilities for fathers and mothers. The USSR stresses the obligation of Member States to recognize that women, including married women, have equal civil rights and legal capacity with men (the same property and non-property rights; free choice of spouse, the right to choose a surname, profession, occupation or place of residence, the equal right to the profession, use and disposal of property owned jointly by husband and wife, the equal right to

/...

seek dissolution of marriage, the equal rights and duties of mothers and fathers, the equal right to act as guardian or foster parent, to adopt children and to receive family allowances).

73. Egypt is of the view that in matters such as inheritance and the ending of the marriage contract, due consideration must be given to the family laws in various countries which adopt different attitudes regarding such matters. This is considered vital in view of the fact that these family laws respect religious provisions which are closely connected with the faith and belief of nationals.

73a. Finland, while being of the view that the Declaration could be taken as the basis for the development of new conventions, fears that paragraph 1 of article 6 might be interpreted as implying that it is not possible to achieve equality between women and men while preserving the unity and harmony of the family. The Government notes that, from a historical point of view, women's emancipation and the industrialization of countries are parallel processes. Industrialization makes it possible to transfer part of the work that earlier was performed at home into large industrial production units. The role of domestic work and the importance of the family as a productive unit has been decreased. The employment of women has been transferred outside their home. In the same historical process, birth rates tended to decrease in economically advanced countries, the educational level of both women and men rose and vocational training became more common. It also became necessary for Governments to make efforts in their social policies in order to transfer child-care and other traditional functions of the family partially to society. This trend has also caused an increase in the number of divorce cases, as women's independence, in respect of earning their living, makes divorces possible in practice. While it might appear that women's emancipation would risk a loosening in family ties, these phenomena are interrelated only as parallel results of industrialization. Along with economic independence for women the relations and understanding between the spouses has become more important than before. It is therefore inopportune to connect the unity and harmony of the family with women's emancipation, and further, the responsibility for unity and harmony in the family should lie equally with both men and women.

74. Guyana proposes two provisions in the matter of family legislation, namely, that:

- (a) Women should have equal rights to guardianship of children, in the termination of marriage by death or divorce, or upon legal separation;
- (b) There should be provision for distribution of property at the termination of marriage by death or divorce, or upon legal separation.

75. The Byelorussian SSR, Guyana and USSR also consider that it would be useful to include in the text of the convention a provision prohibiting any distinctions between the legal status of children born in and out of wedlock, and stipulating that all children shall enjoy the same social protection. Guyana suggests in particular that:

- (a) A father should have the right to apply to the Court to declare him to be the father of a child born out of wedlock, provided that he can establish that he has maintained the child and acknowledged paternity;
- (b) Provision should be made for children born out of wedlock to share in the estate of the father at his death;
- (c) The word "illegitimate" should be removed from legal or common terminology in relation to children born out of wedlock.

Discrimination in penal law (article 7 of the Declaration; E/CN.6/552, paras. 80 to 83)

76. The text submitted by the Philippines is patterned closely after article 7 of the Declaration of 1967 (see annex I, article 8).

Traffic in women (article 7 of the Declaration; E/CN.6/552, paras. 84 to 89)

77. The Philippine text on measures to combat all forms of traffic in women and exploitation of prostitution of women is based on article 8 of the Declaration (see annex I, article 9). In the view of the Government, the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and the instruments listed in its preamble fully cover the matter so that a detailed article is not considered necessary.

Discrimination in education (article 9 of the Declaration; E/CN.6/552, paras. 90 to 116)

78. Both the Philippines and the USSR make proposals for an article dealing with discrimination in education which follow closely article 9 of the Declaration of 1967.

79. The Philippine text (see annex I, article 10) adds in its introductory paragraph a reference to the aims of education, which was not mentioned in the Declaration of 1967. The text proposed for this addition is based on article 13 (1) of the International Covenant on Economic, Social and Cultural Rights.

80. The USSR recommends that the Convention should provide for measures to guarantee women, including married women, the same rights, conditions and opportunities as men at all levels of education (in particular, equal conditions of access to education, the same curricula, the same examinations, teaching staff of the same standard, equal treatment with respect to scholarships and grants, and the speedy elimination of illiteracy among women in areas where it still exists).

81. Finland is of the view that, in considering the preparation of new conventions, the existing treaties should be reviewed with a view to finding out whether they contain provisions which might, in practice, discriminate against

/...

women. It cites as an example the UNESCO Convention against Discrimination in Education, which provides that "the establishment or maintenance of separate educational systems or institutions for pupils of the two sexes shall not be deemed to constitute discrimination, if these systems or institutions offer equivalent access to education, provide a teaching staff with qualifications of the same standards as well as school premises and equipment of the same quality, and afford the opportunity to take the same or equivalent courses of study" (article 2). The Government reports that the Committee on the Status of Women, established by the Finnish Government, in its report submitted in 1970, unanimously adopted a negative attitude towards such a form of education and required coeducation in all subject-matters and at all levels. It concluded that the maintenance of differences in the choice of occupations by girls and boys, still prevailing also in industrially far advanced societies, can be attributed partly to separate education. The Philippines, in commenting on the Convention against Discrimination in Education in relation to its proposed text, does not appear to share this concern.

82. Sweden considers that, while further conventions on the right to education appear to be unnecessary at the present time, effective action is needed to implement the terms of equality laid down in the UNESCO Convention and in article 9 of the Declaration of 1967. International measures asserting the right of women to education at all levels and in all disciplines must be co-ordinated with measures of labour market policy and in other areas of society. In this context, attention should be paid to the importance of men being given the opportunity to be educated in traditionally female subjects and occupations, and the removal of obstacles that impair or make impossible the sharing of responsibility for caring for children and other practical obligations of family life.

83. As regards the access of women to education information to help in ensuring the health and well-being of families which is proclaimed in paragraph (e) of article 9 of the Declaration of 1967, the Philippines proposes the addition of a specific reference to family planning. The Government points out that none of the existing international treaties deals expressly and directly with this right (see also the proposal of Finland for a separate convention in this field (para. 97 below)).

84. Sweden also comments on this provision of the Declaration, stressing that it should not be interpreted in such a way as to infer that the woman should bear the primary responsibility for the health and well-being of the family. This as in other areas should be a shared responsibility.

Economic and social rights (article 10 of the Declaration; E/CN.6/552, paras. 117 to 169)

85. The Philippine text of an article on economic and social rights (see annex I, article 11) is identical with article 10 of the Declaration of 1967, except for the following:

/...

- (a) No reference is made to work "of equal value" in the clause setting forth the right of women to equal remuneration with men and to equality of treatment in respect of work;
- (b) The provision dealing with measures taken to protect women in certain types of work, contained in paragraph 3 of article 10 of the Declaration, has not been taken over in the Philippine draft.

86. The USSR suggestions concerning the contents of an article on these rights go beyond the scope of article 10 of the Declaration, as well as covering the provisions included in all three paragraphs of that article. As regards equality of rights with respect to employment, the USSR suggests that the following be incorporated in the new convention: free choice of occupation; the right to obtain work for which the worker is qualified; the right to continue an occupation or profession after marriage; the right to equal remuneration for equal work; the right to equal vocational training and retraining; the right to receive, when necessary, free training in a new occupation or profession and to resume work of a similar standard after an unavoidable absence; equal rights with men to paid annual leave and social security in the event of unemployment, illness, disability, old age or loss of ability to work for any other reason; equal rights with men with respect to old-age pensions, with the establishment of a lower pensionable age and a shorter qualifying period of work in the case of women; women who work less than a full working day or full working week and are paid on an hourly or piece-work basis must be guaranteed all the rights, benefits and privileges extended to persons who work a full working day.

87. The USSR further proposes that a separate provision should set out the measures stipulating the specific nature of the protection of women workers, account being taken of: (a) the physical nature of women and of the fact that mothers perform a social function and have the right to protection by the State and by society as a whole; (b) the obligation of Member States: (i) to restrict the employment of women on heavy work and on work involving conditions physically harmful to them and to establish easier conditions of work for pregnant women and nursing mothers, including their transfer when necessary to lighter work at the same rate of pay; (ii) to grant paid leave of absence of not less than 14 weeks in the event of pregnancy and childbirth and to hold the job open for the woman concerned; (iii) to prohibit the dismissal of a woman absent by reason of pregnancy and childbirth and to prohibit the dismissal of a woman on the grounds that she is pregnant or nursing a child; (iv) to establish children's institutions to care for the children of working mothers, crèches, kindergartens, after-school centres and the like; and (v) to provide special assistance for unmarried mothers and women with large families etc. The provisions should be extended to women gainfully employed in state, co-operative, public or private institutions, industrial or non-industrial enterprises and other organizations or in agriculture, and also to women performing paid work at home for any organization or person, or gainfully employed in a private household.

88. Guyana stresses the following two points which it wishes included in any new instrument or instruments adopted:

/...

- (a) Women should have the same basic wage as men; and
- (b) All legislation which limits the hours during which women may be employed in factories etc. should be eliminated.

89. The comments of Czechoslovakia relate especially to the measures needed to assist women with children to achieve actual equality which the Government considers should be included in any new instruments adopted. These include, for example, the right of the mother and the family to support at childbirth, the right to paid maternity leave, the enactment of maternity benefits which enable women if they so wish, to stay at home with the children for a certain time without substantially reducing the woman's and her family's standard of living. Finland considers that the question of assistance to parents with family responsibilities should be the subject of a new special convention (see paragraph 95 below). Sweden, while not in favour of a new comprehensive convention, considers it essential that any new instrument should reflect the requirement that men should assume and be given the opportunity of exercising their share of the responsibility for the family provision for and care of the children. Unless responsibility is shared, it would appear impossible to achieve equality on the labour market and in education.

90. Finland considers that in any new instruments adopted, the principle set forth in paragraph 3 of article 10 of the Declaration relating to the protection of women workers "for reasons inherent in their physical characteristics" should be changed to protect all workers from work which might involve health risks. The USSR considers that if discrimination is to be effectively eliminated, provision must be made for the establishment of special conditions granting women additional rights and advantages in the field of protection of female workers for reasons inherent in their physical nature, and for measures for the protection of mother and child; these should not be interpreted as violations of the principle of the equality of rights of men and women.

B. Observations and suggestions concerning fields of discrimination that might be regulated by specific conventions

1. Family law and related fields

91. As noted above, some Governments consider that some or all of the principles set forth in article 6 of the Declaration should be the basis for new separate conventions.

92. Austria, for example, believes that there should be a convention on the status of women in marriage and the family. Belgium considers that the different points dealt with in article 6 should be regulated by separate international instruments, and that the text of these should incorporate provisions corresponding to each of the paragraphs of article 6.

93. Poland proposes that in addition to the single comprehensive convention separate conventions are also needed in the following areas:

/...

(a) Equal rights of men and women in the legal relations between wife and husband concerning property

Such a convention should contain provisions which would confirm that women have the legal capacity to administer their own property, the equal rights of wife and husband to administer their joint property and property of their minors, the equal rights of wife and husband in the partition of their joint property and the equal mutual right to inheritance, the right of a wife to make a will freely. The Government notes that in the above fields there is a flagrant discrimination against women in many countries;

(b) Equal rights and obligations of mother and father towards their children

The Government states that in a number of countries where only the father has parental authority over his children, this authority is, very often, executed in an arbitrary way and not always in the child's interest. In some countries, the mother is completely deprived of the right to decide any matters concerning her own child.

94. In commenting on article 6 of the Declaration of 1967, Sweden indicates certain fields where it considers new instruments to be desirable, in the first place, the right of women to perform legal acts. The Government is further of the view:

(a) That while it considers the question of legal capacity to be adequately covered in article 61 of the International Covenant on Civil and Political Rights, there are no provisions in conventions guaranteeing women the right, on the same terms as men, to perform legally binding acts, although the Government states that some provisions of the Covenant (e.g., articles 14 and 26) might be invoked to guarantee those rights;

(b) That it must be regarded as a deficiency of international law that there are no provisions guaranteeing the right of women to deal with their own concerns, such as administering their own property, to accept rights and responsibilities and to make decisions affecting them personally. When such provisions are made there should be no distinction between unmarried and married women;

(c) That further investigations might be made into the establishment of provisions concerning equality between husband and wife, although it is open to question whether there are any prospects of achieving international unity or international rules in this field. The Government notes that these rights and responsibilities are not defined in the International Covenant on Civil and Political Rights (article 23, para. 4) nor are there any express provisions that spouses shall have the same rights and responsibilities in respect of their children. It considers, however, that this is not surprising since these rights and responsibilities differ greatly from country to country, primarily for cultural, religious and economic reasons;

(d) That additional provisions covering the principles recognized in article 6, paragraphs 2 (a) and 3 of the Declaration appear to be unnecessary in view of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages of 1962.

2. Social services for parents with family responsibilities

95. Finland proposes that a convention of a general nature should be worked out obliging society to arrange day-care services for children both of whose parents, or, in the case of single-parent families, whose only parent is gainfully employed outside the home or is engaged in full-time studies. Day-care facilities should, as a rule, be arranged for all children irrespective of the economic resources of the parents. In case of a shortage of day-care facilities, preference should be given to those children whose need of day-care might be fixed according to a scale based on the parent's ability to pay. All forms of day-care facilities should be directed and supervised by public authorities. Member States should also take measures for the arrangement of services designed to facilitate home-keeping. For instance, in the planning, construction and financing of dwelling houses and dwelling areas, technical and administrative obstacles impeding the development of home-keeping and child-care services should be eliminated and efficient measures should be taken for the further development of the said services.

3. Education of public opinion

96. Canada lists the question of education of the general public as one of the several areas which are not covered by the existing conventions and which are certainly of an importance worthy of consideration (see also paragraph 56 above).

4. Rights of the woman with regard to the bearing of children

97. Finland proposes the preparation of an international convention on the above question with a view to furthering the achievement of the following aims:

- (a) It must be considered every woman's right to decide whether she desires to have children, or not, and, if so, to decide on the number of her children;
- (b) To enable women to enjoy their rights, it is necessary:
 - (i) that birth control be efficiently promoted in all countries;
 - (ii) that information on the possibilities and methods of birth control be disseminated effectively, preferably at school;
 - (iii) that birth control information be made available for everyone, free of charge; and

- (iv) that contraceptives are available for all, and that they are free, or so inexpensive that their use does not cause financial difficulties for anybody (see also paragraph 82 above).

5. Rights of the child

98. Bulgaria considers it imperative to convert the Declaration of the Rights of the Child of 1959 into a legally binding convention. Suggestions were also made concerning provisions covering children born out of wedlock (see paragraph 75 above).

6. Protection of women and children in emergency and armed conflict

99. Bulgaria considers it necessary to elaborate a convention on the "Protection of women and children in emergency and armed conflicts in the struggle for peace, self-determination, national liberation and independence", a subject dealt with in resolution 1687 (LII) of the Economic and Social Council of 2 June 1972.

V. OBSERVATIONS AND SUGGESTIONS FOR MEASURES OF INTERNATIONAL IMPLEMENTATION (E/CN.6/552, paras. 173-228)

100. Some Governments make observations on the measures of implementation which are applicable to existing conventions regulating women's rights, as well as suggestions as to the measures of implementation which should apply under the contemplated new instrument or instruments.

101. Bulgaria, for example, considers that it would be expedient if Member States would furnish more often information about the actual implementation of the Convention on Political Rights. The Philippines points to the fact that the only international measures provided in the three United Nations Conventions in the status of women field which are in force (Convention on the Political Rights of Women, 1962; Convention on the Nationality of Married Women, 1957; and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962) are provisions for the judicial settlement of interstate disputes. 6/

102. Finland recommends that the measures of implementation of the Conventions which have already been ratified should be studied and that improved methods of supervision should be suggested.

103. Finland also believes that the United Nations should encourage all Member States to initiate studies on the status of women and invite them to prepare governmental programmes for the implementation of the principle of equality between men and women. For that purpose, each Member State should establish a politically representative body. The United Nations should follow the working of these bodies by means of a reporting system equal to the one used by the ILO. All possible assistance should be given by the United Nations, for instance in the form of relevant literature, recommendations and instructions, expert opinions and intergovernmental meetings arranged for the discussion of relevant problems.

104. As regards implementation measures for the new instrument or instruments, Canada suggests that careful thought be given to setting up a reporting procedure within the Commission on the Status of Women and a method for handling complaints by States and individuals regarding violations of the new convention. The Government suggests that conflict in implementation procedures could be avoided by automatically transferring all reporting mechanisms to the Commission on the Status of Women, which would be better equipped to investigate matters relating to discrimination against women. This, of course, would not invalidate the procedures that are provided for in the Covenants and the Optional Protocol, which cover an extremely wide area of human rights.

6/ These Conventions do not provide for a reporting procedure, although a voluntary reporting system is in effect within the framework of the implementation of the Declaration of 1967 (Economic and Social Council resolution 1325 (XLIV) of 31 May 1968).

105. The Netherlands considers that it will be necessary to make adequate provisions for those directly concerned, such as social organizations and individuals, so that they may participate in a reporting system, and their views, wishes and complaints may receive the attention of an international forum if they evoke sufficient response at the national level. In practical terms this means that international and national non-governmental organizations should be given an opportunity to comment in public on reports submitted by Governments, as is the case in the system of the International Labour Organisation. One might also consider granting these organizations the function of correspondent. As correspondents they might play a role in channelling wishes and complaints towards an international forum. The Commission on the Status of Women could possibly function as such a forum. It would also have to attend to the necessary co-ordination with other international procedures, which would require its close co-operation, notably with the ILO and UNESCO.

106. The Philippines believes that the most effective measures consist in the vigorous implementation of the contemplated convention on the national level. The Government's preliminary suggestions as to international measures of implementation is that those provided for in the International Covenant on Economic, Social and Cultural Rights, part IV, should apply also to the contemplated single convention (i.e., reports by States and by specialized agencies to the Economic and Social Council, which may transmit the reports to the Commission on Human Rights for study and general recommendations, or, as appropriate, for information (see annex III, para. 1)). The effect of the Philippines proposal would be that the Council would transmit the reports (apparently as far as they related to the new convention) not only to the Commission on Human Rights, but also to the Commission on the Status of Women. The Government adds that using machinery which has already been created by another Covenant for the proposed new convention would have the virtue of economy and would avoid duplication.

107. Sweden shares the view that there is a need for clauses on the international supervision of the adherence to convention provisions. The Government suggests that consideration be given to creating a system for international supervision similar to that prescribed in the Convention on the Elimination of All Forms of Racial Discrimination and the Optional Protocol to the Covenant on Civil and Political Rights. Sweden wishes particularly to stress that it is essential that such supervision provisions should also provide for the right of private persons to lodge complaints concerning a State Party's implementation of the Convention.

The problem of competing international procedures

108. Reference has already been made above to the statement of the Government of Austria that in case of parallel existence of several international instruments, the responsibilities for controlling the implementation of the various conventions would be distributed among various international organizations and thus result in overlapping.

109. Brazil stresses the necessity of avoiding duplication of effort in several areas.

110. Canada states that were a new instrument to be drafted, the relation of the ILO Conventions concerning the status of women to that instrument should be carefully considered in order that overlapping systems of enforcement machinery not be established.

111. Finland, commenting on the problem of one or several instruments, believes that the implementation of one single extensive convention would have to be entrusted to several authorities, as if the single convention were composed of several separate instruments with a reduced scope of application.

VI. OBSERVATIONS AND SUGGESTIONS CONCERNING FINAL CLAUSES

1. Ratification, entry into force, reservations

112. The Philippines recommends that the single comprehensive convention should be in force over the entirety of the jurisdiction of each State Party; that reservations of whatever kind shall not be permitted; and that the instrument should provide for its entry into force within the shortest possible time.

113. Finland, while not in favour of a single comprehensive convention, mentions the possibility of including in its provisions for partial ratification since different Governments have different priorities with respect to equality of rights of men and women.

2. Saving clause

114. The USSR considers that it would be appropriate to stipulate that no provision of the Convention may be considered as diminishing the importance of the existing national legislation of countries if that legislation is more extensive with respect to the rights of women.

VII. QUESTIONS ON WHICH THE WORKING GROUP AND THE COMMISSION
MAY WISH TO MAKE RECOMMENDATIONS

1. The preparation of a new instrument or instruments

115. It appears from resolution 5 (XXIV), its legislative history, from previous proceedings in the Commission and higher bodies, and from the replies received from Governments that there is a consensus, or near consensus among those Member States which have taken a position that it is desirable to adopt either one or more additional international instruments designed to eliminate discrimination against women. It does not therefore appear necessary for the Working Group and the Commission to adopt an express statement to this effect, although it might be desirable to reaffirm the statement made in resolution 5 (XXIV).

2. The need for one or more instruments

116. Decisions will, however, have to be taken whether to recommend the preparation of (a) one comprehensive convention covering the whole field of discrimination against women; (b) one or more conventions dealing with specific rights or groups of rights; or (c) both a single convention and specific conventions.

117. A larger number of Governments which submitted comments appear to favour the first course of action.

3. The substantive content of a single comprehensive convention

118. If the alternative of a single comprehensive convention is chosen, a conclusion will have to be reached on the scope of the substantive provisions and, in particular: (a) whether these should cover all the fields of discrimination which are dealt with in the substantive provisions of the Declaration of 1967, and (b) whether provisions on matters not regulated by the Declaration of 1967 should be added (see chapter IV above).

4. Instruments additional to the single convention

119. There have also been proposals by Governments which favour a single comprehensive convention, to have also additional conventions dealing with specific fields. If this idea is approved, the questions arises: (a) whether priority should be given to the preparation of a comprehensive convention (see Poland, paragraph 21 above), or (b) whether precedence should be given to the specific new instruments as a preparatory phase of the working out of the general convention (see Italy, paragraph 24 above).

5. The subject-matter of conventions in specific fields of discrimination against women

120. If the decision is to concentrate on a convention or conventions dealing with specific rights, then recommendations will have to be made: (a) about the subjects to which these new instruments would be devoted, and the order of their preparation and adoption; and (b) as to which of them should be elaborated by the competent organs of the United Nations and which should be referred to a specialized agency.

6. The relationship between the new and the existing instruments

121. Consideration has also to be given to the relationship between the new instrument or instruments to be prepared and existing instruments of the United Nations and the specialized agencies.

122. General principles of how to approach this difficult problem are laid down in article 30 of the Vienna Convention on the Law of Treaties of 1969, which may provide guidance, even though the Convention is not yet formally in force. It stipulates that when all Parties to an earlier treaty are Parties also to a later treaty relating to the same subject-matter, the earlier treaty applies only to the extent that its provisions are compatible with those of the later treaty. The same rule applies between the Parties to both treaties when the Parties to the later treaty do not include all the Parties to the earlier one. As between a State Party to both treaties and a State Party to only one of the treaties, the treaty to which both States are Parties governs their mutual rights and obligations. When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with an earlier or later treaty, the provisions of that other treaty prevail.

123. These general provisions require, and, of course, permit modifications in the matter of human rights instruments, where the stress is not so much on mutual obligations of States inter se but on the protection of human rights and the prevention of discrimination, and where instruments emanating from different intergovernmental organizations (United Nations, ILO, UNESCO) are involved.

124. Examples of earlier attempts at solving similar problems are given in annex II. The most common method used has been the insertion of saving clauses. Cross-reference to earlier instruments may be inserted in the preamble or in the operative part of the convention.

7. The international measures of implementation

125. Decisions will need to be taken regarding the measures of implementation to be included in the new instrument or instruments, and the part that should be played by the Commission on the Status of Women in this respect.

/...

126. In order to assist the Commission and the Working Group, a summary of the measures of implementation provided in existing United Nations instruments in the human rights field is given in annex III. These include: reporting systems by States Parties; interstate complaints, and communications from individuals, alleging violation of the convention; communication to the Secretary-General and other States Parties of laws, regulations and other information concerning the application of the convention; and settlement of disputes by reference to the International Court of Justice.

Annex I

TEXT OF THE DRAFT CONVENTION ON THE ELIMINATION OF DISCRIMINATION
AGAINST WOMEN PROPOSED BY THE PHILIPPINES

Article 1

1. In this Convention, the term "discrimination against women" shall mean any distinction, exclusion, restriction or preference made on the basis of sex, which has the effect or the purpose of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any field of public life.

Article 2

1. States Parties condemn discrimination against women and undertake to pursue all appropriate means and without delay a policy of eliminating discrimination against women in all its forms, denying or limiting as it does their equality of rights with men, and to this end:

- (a) Each State Party undertakes to engage in no act or practice of discrimination against women and to ensure that public authorities and public institutions, national and local, shall act in conformity with this obligation;
- (b) Each State Party undertakes not to sponsor, defend or support discrimination against women by any persons or organizations;
- (c) Each State Party shall take effective measures to review governmental, national and local policies, and shall take all appropriate measures, including legislation on, to nullify, or abolish existing laws, customs, regulations and practices which are discriminatory to women;
- (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation, discrimination against women and undertake to establish adequate legal protection for equal rights of men and women, and to give effect to the rights recognized in this Convention where existing legislative or other measures are not sufficient for the purpose, in particular:
 - (i) each State Party shall embody the principle of equality of rights in its Constitution, if not yet incorporated, or shall guarantee the same by law;
 - (ii) each State Party shall, if circumstances warrant, ratify or accede to and fully implement as soon as practicable the international

/...

instruments of the United Nations and the specialized agencies relating to the elimination of discrimination against women.

Article 3

1. States Parties shall when the circumstances so warrant undertake, in the social, economic, cultural and other fields, concrete measures to ensure the adequate development and advancement of women, for the purpose of guaranteeing them full and equal enjoyment of human rights and fundamental freedoms.

Article 4

1. States Parties undertake to adopt immediate, effective appropriate measures, particularly in the fields of teaching, education, culture and information, with a view to educating public opinion and to directing national aspirations towards the eradication of prejudice and the abolition of customary and all other practices which are based on the idea of inferiority of women.

2. Any advocacy of hatred for the feminine sex that constitutes incitement to discrimination against women shall be prohibited by law.

Article 5

1. States Parties undertake to take all appropriate measures to ensure to women on equal terms with men, without any discrimination:

- (a) The right to vote in all elections and be eligible for election to all publicly elected bodies;
- (b) The right to vote in all public referenda;
- (c) The right to hold public office and to exercise all public functions.

States Parties undertake to guarantee such rights by legislation.

Article 6

1. Each State Party agrees that women shall have the same rights as men to acquire, change or retain their nationality.

2. Each State Party agrees that neither the celebration nor the dissolution of a woman's marriage to an alien, nor the change of nationality by her alien husband during marriage, shall automatically affect her nationality either by rendering her stateless or by forcing upon her the nationality of her husband.

3. Each State Party agrees that women shall have equal rights as men to transmit their nationality to their children.

Article 7

1. Each State Party agrees, without prejudice to the safeguarding of the unity and the harmony of the family, which remains the basic unit of any society, to take all appropriate measures, particularly legislative measures, to ensure to women, married or unmarried, equal rights with men in the field of civil law, and in particular:

- (a) The right to acquire, administer, enjoy, dispose of and inherit property, including property acquired during marriage;
- (b) The right to equality in legal capacity and the exercise thereof;
- (c) The same rights as seen with regard to the law on the movement of persons, the freedom to choose her residence and the freedom to leave any country, including her own.

2. Each State Party agrees to take all appropriate measures to ensure the principle of equality of status of the husband and wife and in particular:

- (a) Women shall have the same right as men to enter into the marriage state;
- (b) Women shall have the same right as men to free choice of a spouse and to enter into marriage only with their free and full consent;
- (c) Women shall have equal rights and duties with men during marriage and at its dissolution. In all cases the interest of the children shall be paramount;
- (d) Parents shall have equal rights and duties in matters relating to their children except in cases where the mother exercises full parental authority over her child born out of wedlock. In all cases the interests of the children shall be paramount.

3. Child marriage and the betrothal of young girls before puberty shall be prohibited, and effective action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Article 8

1. Each State Party agrees to repeal all provisions of its penal codes which constitute discrimination against women.

Article 9

1. Each State Party agrees to take all appropriate measures, including legislation, to combat all forms of traffic in women and exploitation of prostitution of women in accordance with international conventions and agreements in this regard.

Article 10

1. Each State Party agrees to take all appropriate measures to ensure women, married or unmarried, equal rights with men in the field of education, which education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms and which has such aims as are provided for in the International Covenant on Economic, Social and Cultural Rights.

Each State Party undertakes to take appropriate measures towards the attainment of the foregoing, in particular:

- (a) Equal conditions of access to, and study in educational institutions of all types, including universities and vocational, technical and professional schools;
- (b) The same choice of curricula, the same examinations, teaching staff with qualifications of the same standard, and school premises and equipment of the same quality, whether the institutions are co-educational or not;
- (c) Equal opportunities to benefit from scholarships and other study grants;
- (d) Equal opportunity for access to programmes of continuing education, including adult literary programmes;
- (e) Access to educational information to help in ensuring the health and well-being of families in relation to family planning.

Article 11

1. Each State Party agrees to take all appropriate measures to ensure to women, married or unmarried, equal rights with men in the field of economic and social life, and in particular:

- (a) The right, without discrimination on grounds of marital status or any other grounds, to receive vocational training, to work, to free choice of profession and employment, and to professional and vocational advancement;
- (b) The right to equal remuneration with men and to equality of treatment in respect of work;

- (c) The right to leave with pay, retirement privileges and provision for security in respect of unemployment, sickness, old age and other incapacity to work;
- (d) The right to receive family allowance on equal terms with men.

2. In order to prevent discrimination against women on account of marriage or maternity and to ensure their effective right to work, measures shall be taken to prevent their dismissal in the event of marriage or maternity and to provide paid maternity leave, with the guarantee of returning to former employment, and to provide the necessary social services, including child care facilities.

Annex II

EXAMPLES OF PROVISIONS IN UNITED NATIONS CONVENTIONS
REGULATING THE RELATIONSHIP OF NEW CONVENTIONS TO
EXISTING ONES

Article 8 (3) of the International Covenant on Economic, Social and Cultural Rights and article 22 (3) of the International Covenant on Civil and Political Rights provide for the relationship to the Covenant of an earlier (1948) International Labour Organisation Convention, in identical terms, as follows:

"Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as to prejudice the guarantees provided for in that Convention."

Article 24 of the Covenant on Economic, Social and Cultural Rights and article 46 of the Covenant on Civil and Political Rights provide, also in identical terms, as follows:

"Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to matters dealt with in the present Covenant."

Article 5 (2) of the Covenant on Economic, Social and Cultural Rights and article 5 (2) of the Covenant on Civil and Political Rights provide in similar, though not identical, wording that there shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party pursuant to law, conventions, regulations or custom on the pretext that the Covenant does not recognize such rights or that it recognizes them to a lesser extent.

Article 5 (2) of the Optional Protocol to the International Covenant on Civil and Political Rights stipulates that the Human Rights Committee shall not consider any communication from an individual unless it has ascertained that the same matter is not being examined under another procedure of international investigation or settlement.

The Slavery Convention of 1926 refers in its preamble to the General Act of the Brussels Conference of 1889/90 and to the Convention of Saint-Germain-en-Laye of 1919 and in its operative article 3 to the Convention relative to the International Trade in Arms of 1925. The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 refers in its preamble to the Slavery Convention of 1926 and to the Forced

Labour Convention (ILO) of 1930, which on its part is referred to, together with the Slavery Convention, 1926 in the Protection of Wages Convention (ILO), of 1949.

The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949/50 refers in its preamble to four earlier instruments which will be replaced by the Convention in the relations between the Parties thereto. The Final Protocol to the Convention of 21 March 1950 provides that nothing in the Convention shall be deemed to prejudice any legislation which ensures, for the enforcement of the provisions for securing the suppression of the traffic in persons and of the exploitation of others for purposes of institution, stricter conditions than those provided by the Convention.

The Convention relating to the Status of Refugees, 1951, uses a reference to older instruments (of 1926, 1928, 1933 and 1939) as part of its definition of the term "refugee" (article 1 a (1)) and contains an article (27) on its relations to previous conventions, which it replaces among Parties to it.

Annex III

SUMMARY OF MEASURES OF IMPLEMENTATION PROVIDED BY EXISTING
UNITED NATIONS INSTRUMENTS IN THE FIELD OF HUMAN RIGHTS

The measures of implementation of the International Covenant on Economic, Social and Cultural Rights consist of a system of reporting. States Parties undertake to submit reports for consideration by the Economic and Social Council, which may transmit them to the Commission on Human Rights for study and general recommendations, or information. The Council may submit to the General Assembly reports with recommendations of a general nature (articles 16 to 22 of the Covenant).

The Covenant further provides that the Council may make arrangements with the specialized agencies with respect to their reporting to it on the progress made in achieving the observance of the provisions of the Covenant falling within the scope of their activities.

The Covenant on Civil and Political Rights also provides for a reporting procedure as the main method of international implementation. While under the Covenant on Economic, Social and Cultural Rights, the Economic and Social Council, assisted by the Commission on Human Rights and the specialized agencies, is the instrumentality of implementation, under the Civil and Political Rights Covenant, the function is performed by the Human Rights Committee, an organ consisting of 18 members elected by the States Parties and serving in their personal capacity. The Human Rights Committee shall study the reports by States and may make general comments on them which shall be submitted to the States Parties and may also transmit them to the Economic and Social Council (articles 28, 29 and 40 of the Covenant).

In addition to the reporting system, the Covenant on Civil and Political Rights also provides for a system of interstate complaints (communications) and conciliation concerning the application of the Covenant. This system is optional and operates only on a reciprocal basis. The operation of this system is vested in the Human Rights Committee and, in a later stage, in an ad hoc Conciliation Commission. If an amicable solution is not reached, this Commission reports its findings on all questions of fact and its views of the possibilities of an amicable solution of the matter (articles 41 and 42 of the Covenant).

The Optional Protocol to the International Covenant on Civil and Political Rights provides, as far as the States Parties to the Protocol are concerned, for a third method of implementation of the Covenant, additional to the reporting procedure and the system of interstate communication and conciliation. A State Party to the Protocol recognizes the competence of the Human Rights Committee to receive and consider communications from individuals who claim to be victims of a violation of any of the rights set forth in the Covenant. As a result of its consideration of a communication the Committee forwards its views to the State Party concerned and to the individual (articles 1 to 5 of the Protocol).

/...

The measures of implementation of the International Convention on the Elimination of All Forms of Racial Discrimination adopted in 1965, which has been in force since 1969, are similar to, though not identical with, those provided for in the Covenant on Civil and Political Rights, adopted in 1966, which is not yet in force. The Convention provides for the establishment of a Committee on the Elimination of Racial Discrimination with a composition and with functions similar to those of the Human Rights Committee under the Covenant on Civil and Political Rights.

That Committee considers reports by States Parties and makes suggestions and general recommendations based on the examination of reports and information received from States Parties. Its suggestions and general recommendations are reported to the General Assembly. The Committee is also competent to consider interstate communications alleging that a State Party is not giving effect to the provisions of the Convention. As distinct from the Covenant, under the Racial Discrimination Convention this function of the Committee applies to all States Parties, i.e., it is not optional. The Convention provides also for the competence of the Committee to consider communications from individuals or groups of individuals claiming to be victims of a violation of the Convention. This is admissible only in regard to States Parties which have declared that they recognize the competence of the Committee to this effect (articles 8 to 14 of the Convention).

The Parties to the Slavery Convention of 1926, as amended by the Protocol of 1953, undertake to communicate to each other and to the Secretary-General of the United Nations any laws and regulations which they may enact with a view to the application of the provisions of the Convention. In the Supplementary Convention of 1956, the States Parties undertake to co-operate with each other and with the United Nations to give effect to the provisions of the Convention and undertake to communicate to the Secretary-General copies of any laws, regulations and administrative measures enacted or put into effect to implement the provisions of the Convention. The Secretary-General shall communicate the information received to the other Parties and to the Economic and Social Council as part of the documentation for any discussion which the Council might undertake with a view to making further recommendations for the abolition of slavery, the slave trade or institutions or practices which are the subject of the Convention (article 8 of the Convention of 1956).

Under the Convention relating to the Status of Refugees of 1951, the Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention. In order to enable the Office to make reports to the competent organs of the United Nations, the Contracting States undertake to provide it with information and statistical data concerning the condition of refugees, the implementation of the Convention and laws, regulations and decrees in force relating to refugees (article 35). The Contracting States also undertake to communicate to the Secretary-General the laws and regulations which they may adopt to ensure the application of the Convention (article 36).

Under the Convention on the Reduction of Statelessness of 1961 (article 11), the Contracting States shall promote the establishment within the framework of the United Nations of a body to which a person claiming the benefit of the Convention may apply for the examination of his claim and for assistance in presenting it to the appropriate authority.

The following Conventions in the human rights field adopted by or under the auspices of the United Nations contain clauses according to which any dispute between the parties relating to the interpretation or application of the instrument concerned, which cannot be settled by other means, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute:

	<u>Date of adoption</u>
Convention on the Prevention and Punishment of the Crime of Genocide	1948
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others	1949
Convention relating to the Status of Refugees	1951
Convention on the International Right of Correction	1952
Convention of the Political Rights of Women	1952
Convention Relating to the Status of Stateless Persons	1954
Convention on the Nationality of Married Women	1957
Convention on the Reduction of Statelessness	1961
International Convention of the Elimination of All Forms of Racial Discrimination	1965

The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages of 1962 requires for a reference to the International Court of Justice the request of all the parties to the dispute.
