

Convención sobre el consentimiento para el matrimonio, la edad mínima para contraer matrimonio y el registro de los matrimonios

Abierta a la firma y ratificación por la Asamblea General en su resolución 1763 A (XVII), de 7 de noviembre de 1962

Entrada en vigor: 9 de diciembre de 1964, de conformidad con el artículo 6

Los Estados contratantes,

Deseando, de conformidad con la Carta de las Naciones Unidas, promover el respeto a la observancia universal de los derechos humanos y las libertades fundamentales de todos, sin distinción de raza, sexo, idioma o religión,

Recordando que el artículo 16 de la Declaración Universal de Derechos Humanos dice que:

"1) Los hombres y las mujeres, a partir de la edad núbil, tienen derecho, sin restricción alguna por motivos de raza, nacionalidad o religión, a casarse y fundar una familia; y disfrutarán de iguales derechos en cuanto al matrimonio, durante el matrimonio y en caso de disolución del matrimonio.

2) Sólo mediante libre y pleno consentimiento de los futuros esposos podrá contraerse el matrimonio",

Recordando asimismo que la Asamblea General de las Naciones Unidas, en su resolución 843 (IX), de 17 de diciembre de 1954, declaró que ciertas costumbres, antiguas leyes y prácticas referentes al matrimonio y a la familia son incompatibles con los principios enunciados en la Carta de las Naciones Unidas y en la Declaración Universal de Derechos Humanos,

Reafirmando que todos los Estados, incluso los que hubieren contraído o pudieren contraer la obligación de administrar territorios no autónomos o en fideicomiso hasta el momento en que éstos alcancen la independencia, deben adoptar todas las disposiciones adecuadas con objeto de abolir dichas costumbres, antiguas leyes y prácticas, entre otras cosas, asegurando la libertad completa en la elección del cónyuge, aboliendo totalmente el matrimonio de los niños y la práctica de los esponsales de las jóvenes antes de la edad núbil, estableciendo con tal fin las penas que fueren del caso y creando un registro civil o de otra clase para la inscripción de todos los matrimonios,

Conviene por la presente en las disposiciones siguientes:

Artículo 1

1. No podrá contraerse legalmente matrimonio sin el pleno y libre consentimiento de ambos contrayentes, expresado por éstos en persona, después de la debida publicidad, ante la autoridad competente para formalizar el matrimonio y testigos, de acuerdo con la ley.

2. Sin perjuicio de lo dispuesto en el párrafo 1 supra, no será necesario que una de las partes esté presente cuando la autoridad competente esté convencida de que las circunstancias son excepcionales y de que tal parte, ante una autoridad competente y del modo prescrito por la ley, ha expresado su consentimiento, sin haberlo retirado posteriormente.

Artículo 2

Los Estados partes en la presente Convención adoptarán las medidas legislativas necesarias para determinar la edad mínima para contraer matrimonio. No podrán contraer legalmente matrimonio las personas que no hayan cumplido esa edad, salvo que la autoridad competente por causas justificadas y en interés de los contrayentes, dispense el requisito de la edad.

Artículo 3

Todo matrimonio deberá ser inscrito por la autoridad competente en un registro oficial destinado al efecto.

Artículo 4

1. La presente Convención quedará abierta, hasta el 31 de diciembre de 1963, a la firma de todos los Estados Miembros de las Naciones Unidas o miembros de cualquiera de los organismos especializados, y de otro Estado que haya sido invitado por la Asamblea General de las Naciones Unidas a participar en la Convención.

2. La presente Convención estará sujeta a ratificación y los instrumentos de ratificación serán depositados en poder del Secretario General de las Naciones Unidas.

Artículo 5

1. Todos los Estados a que se refiere el párrafo 1 del artículo 4 podrán adherirse a la presente Convención.

2. La adhesión se efectuará depositando un instrumento de adhesión en poder del Secretario General de las Naciones Unidas.

Artículo 6

1. La presente Convención entrará en vigor noventa días después de la fecha en que se haya depositado el octavo instrumento de ratificación o de adhesión.

2. Para cada uno de los Estados que ratifiquen la Convención o se adhieran a ella después de depositado el octavo instrumento de ratificación o de adhesión, la Convención entrará en vigor noventa días después de la fecha en que ese Estado haya depositado el respectivo instrumento de ratificación o de adhesión.

Artículo 7

1. Todo Estado contratante podrá denunciar la presente Convención mediante notificación por escrito dirigida al Secretario General de las Naciones Unidas. La denuncia surtirá efecto un año después de la fecha en que el Secretario General haya recibido la notificación.

2. La presente Convención dejará de estar en vigor a partir de la fecha en que surta efecto la denuncia que reduzca a menos de ocho el número de los Estados partes.

Artículo 8

Toda cuestión que surja entre dos o más Estados contratantes sobre la interpretación o la aplicación de la presente Convención, que no sea resuelta por medio de negociaciones, será sometida a la Corte Internacional de Justicia para que la resuelva, a petición de todas las partes en conflicto, salvo que las partes interesadas convengan en otro modo de solucionarla.

Artículo 9

El Secretario General de las Naciones Unidas notificará a todos los Estados Miembros de las Naciones Unidas y a los Estados no miembros a que se refiere el párrafo 1 del artículo 4 de la presente Convención:

- a) Las firmas y los instrumentos de ratificación recibidos en virtud del artículo 4;
- b) Los instrumentos de adhesión recibidos en virtud del artículo 5;
- c) La fecha en que entre en vigor la Convención en virtud del artículo 6;
- d) Las notificaciones de denuncias recibidas en virtud del párrafo 1 del artículo 7;
- e) La extinción resultante de lo previsto en el párrafo 2 del artículo 7.

Artículo 10

1. La presente Convención cuyos textos chino, español, francés, inglés y ruso hacen fe por igual, quedará depositada en los archivos de las Naciones Unidas.

2. El Secretario General de las Naciones Unidas enviará copia certificada de la Convención a todos los Estados Miembros de las Naciones Unidas y a los Estados no miembros a que se refiere el párrafo 1 del artículo 4. United Nations Treaty Collection

[As of 5 February 2002]

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

New York, 10 December 1962

Entry into force: 9 December 1964 by exchange of letters, in accordance with article 6.
Registration: 23 December 1964, No. 7525.
Status: Signatories: 16 ,Parties: 49.
Text: United Nations, *Treaty Series*, vol. 521, p. 231.

Note: The Convention was opened for signature pursuant to resolution 1763 (XVII),¹ adopted by the General Assembly of the United Nations on 7 November 1962.

PARTICIPANTS

Participant	Signature	Ratification, Accession (a), Succession (d)
Antigua and Barbuda		25 Oct 1988 d
Argentina		26 Feb 1970 a
Austria		1 Oct 1969 a
Azerbaijan		16 Aug 1996 a
Bangladesh		5 Oct 1998 a
Barbados		1 Oct 1979 a
Benin		19 Oct 1965 a
Bosnia and Herzegovina ⁸		1 Sep 1993 d
Brazil		11 Feb 1970 a
Burkina Faso		8 Dec 1964 a

Chile	10 Dec 1962	
China ^{2,3}		
Côte d'Ivoire		18 Dec 1995 a
Croatia ⁸		12 Oct 1992 d
Cuba	17 Oct 1963	20 Aug 1965
Czech Republic ⁴		22 Feb 1993 d
Denmark	31 Oct 1963	8 Sep 1964
Dominican Republic		8 Oct 1964 a
Fiji		19 Jul 1971 d
Finland		18 Aug 1964 a
France	10 Dec 1962	
Germany ^{5,6}		9 Jul 1969 a
Greece	3 Jan 1963	
Guatemala		18 Jan 1983 a
Guinea	10 Dec 1962	24 Jan 1978
Hungary		5 Nov 1975 a
Iceland		18 Oct 1977 a
Israel	10 Dec 1962	
Italy	20 Dec 1963	
Jordan		1 Jul 1992 a
Kyrgyzstan		10 Feb 1997 a
Mali		19 Aug 1964 a
Mexico		22 Feb 1983 a
Mongolia		6 Jun 1991 a
Netherlands	10 Dec 1962	2 Jul 1965
New Zealand	23 Dec 1963	12 Jun 1964
Niger		1 Dec 1964 a
Norway		10 Sep 1964 a
Philippines	5 Feb 1963	21 Jan 1965
Poland	17 Dec 1962	8 Jan 1965

Romania	27 Dec 1963	21 Jan 1993
Saint Vincent and the Grenadines		27 Apr 1999 d
Samoa		24 Aug 1964 a
Slovakia ⁴		28 May 1993 d
South Africa		29 Jan 1993 a
Spain		15 Apr 1969 a
Sri Lanka	12 Dec 1962	
Sweden	10 Dec 1962	16 Jun 1964
The Former Yugoslav Republic of Macedonia ⁸		18 Jan 1994 d
Trinidad and Tobago		2 Oct 1969 a
Tunisia		24 Jan 1968 a
United Kingdom of Great Britain and Northern Ireland		9 Jul 1970 a
United States of America	10 Dec 1962	
Venezuela		31 May 1983 a
Yemen ⁷		9 Feb 1987 a
Yugoslavia ⁸		12 Mar 2001 d
Zimbabwe		23 Nov 1994 a

DECLARATIONS

Declarations and Reservations

(Unless otherwise indicated, the declarations and reservations were made upon ratification, accession or succession.)

Bangladesh¹⁰

Reservations:

Articles 1 and 2:

"The Government of the People's Republic of Bangladesh reserves the right to apply the provisions of articles 1 and 2 in so far as they relate to the question of

legal validity of child marriage, in accordance with the Personal Laws of different religious communities of the country.

Article 2:

The Government of the People's Republic of Bangladesh, in acceding to the Convention will not be bound by the exception clause of article 2 *viz.* except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses".

Denmark

"With the reservation that article 1, paragraph 2, shall not apply to the Kingdom of Denmark."

Dominican Republic

The Dominican Republic wishes the laws of the Dominican Republic to continue to have precedence in respect of the possibility, provided for in article 1, paragraph 2, of entering into a civil marriage by means of a proxy or procuration. Consequently, it can accept the said provisions only with reservations.

Fiji

"The Government of Fiji withdraws the reservation, and declarations in respect of the law of Scotland and in respect of Southern Rhodesia, made on 9th July, 1970 by Her Majesty's Government in the United Kingdom, and affirms that the Government of Fiji declares it to be their understanding that:

"(a) paragraph 1 of Article 1, and the second sentence of Article 2, of the Convention are concerned with the entry into marriage under the laws of a State Party and not with the recognition under the laws of one State or territory of the validity of marriages contracted under the laws of another State or territory; and

"(b) paragraph 2 of Article 1 does not require legislative provision to be made where no such legislation already exists, for marriages to be contracted in the absence of one of the parties."

Finland

"With the reservation that article 1, paragraph 2, shall not apply to the Republic of Finland."

Greece

With reservation to article 1, paragraph 2, of the Convention.

Guatemala

Reservation:

With regard to article 1, paragraph 1, of the Convention, Guatemala declares that since its legislation, in respect of its nationals, does not call for the requirements relating to publicity of the marriage and the presence of witnesses for it to be solemnized, it does not consider itself obliged to comply with those requirements where the parties are Guatemalans.

Hungary

In acceding to the Convention, the Presidential Council of the Hungarian People's Republic declares that it does not consider paragraph 2 of article 1 of the Convention as binding the Hungarian People's Republic to grant, under the terms thereof, permit of marriage when one of the intending spouses is not present.

Iceland

"Article 1, paragraph 2, shall not apply to the Republic of Iceland."

Netherlands

In signing the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, [the Government of the Netherlands] hereby declare that, in view of the equality which exists, from the standpoint of public law, between the Netherlands, Surinam and the Netherlands Antilles, the Government of the Kingdom reserves the right to ratify the Convention in respect of only one or two parts of the Kingdom and to declare at a later date, by written notification to the Secretary-General, that the Convention is to apply also to the other part or parts of the Kingdom.

Norway

"With the reservation that article 1, paragraph 2, shall not apply to the Kingdom of Norway."

Philippines

"The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages was adopted for the purpose, among other things, of insuring to all persons complete freedom in the choice of a spouse. The first paragraph of Article 1 of the Convention requires that the full and free consent of both parties shall be expressed in the presence of the competent authority and of witnesses.

"Considering the provisions of its Civil Code, the Philippines, in ratifying this Convention interprets the second paragraph of Article 1 (which authorizes, in exceptional cases, the solemnization of marriage by proxy) as not imposing upon the Philippines the obligation to allow within its territory the celebration of proxy marriages or marriages of the kind contemplated in that paragraph, where such manner of marriage is not authorized by the laws of the Philippines. Rather, the solemnization within Philippine territory of a marriage in the absence of one of the parties under the conditions stated in said paragraph will be permitted only if so allowed by Philippine law."

Romania

Reservation:

Romania will not apply the provisions of article 1, paragraph 2, of the Convention, regarding the celebration of marriage in the absence of one of the future spouses.

Sweden

With reservation to article 1, paragraph 2, of the Convention.

United Kingdom of Great Britain and Northern Ireland⁹

"(a) . . .

"(b) It is the understanding of the Government of the United Kingdom that paragraph (1) of article 1 and the second sentence of article 2, of the Convention are concerned with entry into marriage under the laws of a State Party and not with the recognition under the laws of one State or territory of the validity of marriages contracted under the laws of another State or territory; nor is paragraph (1) of article 1 applicable to marriages by cohabitation with habit and repute under the law of Scotland;

"(c) Paragraph (2) of article 1 does not require legislative provision to be made, where no such legislation already exists, for marriages to be contracted in the absence of one of the parties;

"(d) The provisions of the Convention shall not apply to Southern Rhodesia unless and until the Government of the United Kingdom inform the Secretary-General that they are in a position to ensure that the obligations imposed by the Convention in respect of that territory can be fully implemented."

United States of America

"With the understanding that legislation in force in the various States of the United States of America is in conformity with this Convention and that action by

the United States of America with respect to this Convention does not constitute acceptance of the provisions of article 8 as a precedent for any subsequent instruments."

Venezuela

[See chapter XVI.1.]

Objections

(Unless otherwise indicated, the reservations were made upon ratification, accession or succession.)

Finland

13 December 1999

With regard to the reservations made by Bangladesh upon accession:

" The Government of Finland notes that the reservation of Bangladesh, being of such a general nature, raises doubts as to the full commitment of Bangladesh to the object and purpose of the Convention and would like to recall that, according to the Vienna Convention on the Law of the Treaties, a reservation incompatible with the object and purpose of the Convention shall not be permitted.

Furthermore, reservations are subject to the general principle of treaty interpretation according to which a party may not invoke the provisions of its domestic law as justification for a failure to perform its treaty obligations.

Therefore the Government of Finland objects to the aforesaid reservations made by the Government of Bangladesh. This objection does not preclude the entry into force of the Convention between Bangladesh and Finland. The Convention will thus become operative between the two States without Bangladesh benefitting from this reservation".

Sweden

14 December 1999

With regard to the reservations made by Bangladesh upon accession:

"The Government of Sweden notes that the reservations include a reservation of a general kind, in respect of articles 1 and 2, which reads as follows:

*[See reservation to Articles 1 and 2 made by Bangladesh under "**Reservations and Declarations**".]*

The Government of Sweden is of the view that this general reservation, referring to the Personal Laws of different religious communities of the country, raises doubts as to the commitment of Bangladesh to the object and purpose of the Convention and would recall that, according to well-established international law, a reservation incompatible with the object and purpose of a treaty shall not be permitted.

It is in the common interest of States that treaties to which they have chosen to become parties are respected, as to their object and purpose, by all parties and that States are prepared to undertake any legislative changes necessary to comply with their obligations under these treaties.

The Government of Sweden therefore objects to the aforesaid general reservation made by the Government of Bangladesh to the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.

This objection does not preclude the entry into force of the Convention between Bangladesh and Sweden. The Convention will thus become operative between the two States without Bangladesh benefitting from the reservation".

Territorial Application

Participant	Date of receipt of the notification	Territories
Netherlands ⁸	2 Jul 1965	Netherlands Antilles, Surinam
United Kingdom ^{3,9}	9 Jul 1970	Associated States (Antigua, Dominica, Grenada, Saint Kitts-Nevis-Anguilla, Saint Lucia and Saint Vincent), State of Brunei, Territories under the territorial sovereignty of the United Kingdom
	15 Oct 1974	Montserrat

NOTES

1. *Official Records of the General Assembly, Seventeenth Session, Supplement No. 17 (A-5217), p. 28.*

2. *Signed on behalf of the Republic of China on 4 April 1963. See note concerning signatures, ratifications, accessions, etc., on behalf of China (note 4 in chapter I.1).*

3. On 10 June 1997, the Governments of China and the United Kingdom of Great Britain and Northern Ireland notified the Secretary-General of the following:

China:

[Same notification as the one made under note 2 in chapter V.3.]

United Kingdom of Great Britain and Northern Ireland:

[Same notification as the one made under note 4 in chapter IV.1.]

In addition, the notification made by the Government of China contained the following declaration:

1. *It is the understanding of the Government of the People's Republic of China that article 1 (2) of the [said Convention] does not require legislative provision to be made, where no such legislation already exists in the Hong Kong Special Administrative Region, for marriage to be contracted in the absence of one of the parties.*

2. *The signature by the Taiwan authorities of China on 4 April 1963 of the [said Convention] is illegal and null and void.*

4. *Czechoslovakia had signed and ratified the Convention on 8 October 1963 and 5 March 1965, respectively. See also note 11 in chapter I.2.*

5. *The German Democratic Republic had acceded to the Convention on 16 July 1974. See also note 14 in chapter I.2.*

6. *In a note accompanying the instrument of accession, the Government of the Federal Republic of Germany declared that the Convention "shall also apply to Land Berlin with effect from the date on which it enters into force for the Federal Republic of Germany".*

With reference to the above-mentioned declaration, communications have been addressed to the Secretary-General by the Governments of Bulgaria, Czechoslovakia, Hungary, Poland, Romania and the Union of Soviet Socialist Republics. Those communications are identical in essence, mutatis mutandis, to those referred to in the second paragraph of note 4 in chapter III.3.

In this respect, the Government of the German Democratic Republic, upon accession to the Convention on 16 July 1974, made a declaration which is identical in essence, mutatis mutandis, to the one reproduced in the fourth paragraph of note 3 in chapter III.3.

In reference to that declaration, communications were received by the Secretary-General from the Governments of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America (8 July 1975) and from the Government of the Federal Republic of Germany (19 September 1975), which are identical in essence, mutatis mutandis, to the corresponding communications reproduced in note 4 in chapter III.3.

Subsequently, in a communication received by the Secretary-General on 3 October 1990, the Government of Hungary indicated that, the German State having achieved its unity on this day (3 October 1990), it had decided to withdraw, as from that date, the declaration it had made with respect to the notification of extension by the Federal Republic of Germany to Land Berlin.

See also note 5.

7. The formality was effected by Democratic Yemen. See also note 33 in chapter I.2.

8. See note 8 in chapter I.1.

9. In a notification received on 15 October 1974, the Government of the United Kingdom informed the Secretary-General of the withdrawal of the reservation corresponding to sub-paragraph a, according to which it reserved the right to postpone the application of article 2 of the Convention to Montserrat pending notification to the Secretary-General that the said article would be applied there.

10. In this regard, the Secretary-General received the following communications on the dates indicated hereinafter:

Germany (17 December 1999):

"The Government of the Federal Republic of Germany notes that this constitutes a reservation of a general nature in respect of provisions of the Convention which may be contrary to the domestic law of Bangladesh. The Government of the Federal Republic of Germany is of the view that this general reservation raises doubts as to the full commitment of Bangladesh to the object and purpose of the Convention. In view of the fact that the Convention contains

only ten short articles the reservation to one of its core principles seems particularly problematic. It is in the common interest of States that treaties to which they have chosen to become Parties are respected, as to their object and purpose, by all Parties and that States are prepared to undertake any legislative changes necessary to comply with their obligations under these treaties.

The Government of the Federal Republic of Germany therefore objects to this reservation made by the Government of the People's Republic of Bangladesh. This objection does not preclude the entry into force of the Convention between the Federal Republic of Germany and the People's Republic of Bangladesh".

Netherlands (20 December 1999):

"The Government of the Kingdom of the Netherlands considers that such a reservation, which seeks to limit the responsibilities of the reserving State under the Convention by invoking national law, may raise doubts as to the commitment of this State to the object and purpose of the Convention and, moreover, contribute to undermining the basis of international treaty law.

It is in the common interest of States that treaties to which they have chosen to become parties should be respected, as to object and purpose, by all parties.

The Government of the Kingdom of the Netherlands therefore objects to the aforesaid reservation made by the Government of Bangladesh.

This objection shall not preclude the entry into force of the Convention between the Kingdom of the Netherlands and Bangladesh."

11. *The former Yugoslavia had signed and ratified the Convention on 10 December 1962 and 19 June 1964, respectively. See also notes 1 regarding "Bosnia and Herzegovina", "Croatia", "former Yugoslavia", "The Former Yugoslav Republic of Macedonia" and "Yugoslavia" in the "Historical Information" section in the front matter of this volume.*