A Historical Analysis Of International Documents Relating To The Status Of Women And Their Relationship To The Future Foreign Policy Of The United States

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International Women's Year ... [gave] the international community a unique opportunity to promote genuine equality between women and men, not only in law but in everyday life; to ensure the full involvement of women in the development effort, and in the sharing of its benefits; and to greatly increase the contribution of women to the achievement of the fundamental aims and objectives of the United Nations—namely, the maintenance of Peace, and the improvement of the conditions of life for all.

Secretary-General Kurt Waldheim**

I. INTRODUCTION

In 1972 the United Nations Commission on the Status of Women determined it would be timely to proclaim 1975 as International Women's Year (IWY).¹ The Commission subsequently adopted a resolution to that effect and submitted it to the U.N. General Assembly for approval. The General Assembly quickly approved the resolution² and adopted the theme of "equality,

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1. The U.N. Commission on the Status of Women thought 1975 would be timely because it was the midpoint of the Second United Nations Development Decade. United Nations, What Is International Women's Year? (1975 Mimeograph of the U.N.) [hereinafter cited as U.N. Mimeo]. The Commission originally was established in 1946, and currently consists of 32 countries elected by the U.N. Economic and Social Council from the African, Asian, Latin American, Western European, and Eastern European areas. The member countries are elected for four-year terms and may be reelected. Currently, the United States is a member of the Commission. Id. at 1-2. For a brief outline of the functions and goals of the Commission see id. at 2. See Haselmayer, International Women's Year, 61 Women Law. J. 58 (1975).
2. Some of the goals of IWY were: (1) to promote equality between men and women; (2) to insure the integration of women in the development effort; and (3) to recognize the importance of women's increasing contribution to the development of friendly relations and cooperation among countries. U.N. Mimeo, supra note 1, at 1; Taubenfeld & Tauben-
for development, and peace." The Centre for Social Development and Humanitarian Affairs of the U.N. Economic and Social Affairs Department was given the responsibility of implementing IWY and on September 1, 1972, the first woman to be appointed a U.N. Assistant Secretary-General, Mrs. Helvi L. Sipilä, was placed in charge of the Centre. Subsequently, the United States and nine of the developing countries cosponsored a U.N. resolution advocating the establishment of a world conference for IWY. This conference, the U.N. World Conference of the International Women’s Year, was held in Mexico City from June 19 to July 2, 1975.

It was predicted that this conference would significantly further international human rights for women, but in retrospect the

1. J.S. Supra note 3, at 234.
2. See generally BULL. No. 1886, supra note 3, at 233.
3. See, e.g., BULL. No. 3, supra note 5, at 6; Griffiths, International Women’s Year Is Just the Beginning, 60 A.B.A.J. 1237 (1974); Taubenfeld, supra note 2, at 126-27. It had been the hope of many that the conference would “generate an action program for effectuating the legal rights of women in their own countries.” Taubenfeld, supra note 2, at 127.

In recognition of IWY, Pope Paul VI had set up a study commisson within the Roman Catholic Church and stated that:

The Study Comission which we set up, accepting a wish expressed by the 1971 Synod, has precisely received the mandate to study, in a comparison of the aspirations of today’s world, . . . the full participation of women in the community life of the Church and of society.

The programme of International Woman’s [sic] Year, well summed up in the theme “equality, development and peace,” is thus not extraneous to the mostly [sic] lively interest of the Church itself.

BULL. No. 3, supra note 5, at 3. Ms. Sipilä was granted a private audience with Pope Paul VI to discuss IWY and related matters. Id.

On December 10, 1974, Human Rights Day, “a Declaration on International Women’s Year, signed or endorsed by 59 Heads of State or Government, was presented to the Secretary-General on their behalf by Prince Ashraf Pahlavi of Iran.” Id. at 5. This declaration states in part that “[t]he United Nations in addition has repeatedly recognized, as in the International Conference on Human Rights, that peace can not be maintained nor
can economic and social progress be assured without the full participation of women alongside men in all fields.” Id. at 5.

During its 29th session the General Assembly adopted seven resolutions relating to the status of women:

a. International Women's Year, G.A. Res. 3275;
b. Conference of the International Women's Year, G.A. Res. 3276;
c. Consultative Committee for the Conference of the International Women's Year, G.A. Res. 3277;
d. Protection of women and children in emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence, G.A. Res. 3318;
e. Women and development, G.A. Res. 3342;
f. Employment of women by the secretariats of organizations within the United Nations system, G.A. Res. 3352; and
g. Amendment to the Staff Regulations and Staff Rules of the United Nations, G.A. Res. 3353.


"President Ford, in signing the Executive Order concerning a U.S. National Advisory Committee for IWY, implicitly recognized the stubbornly persistent gulf between the formal legal rights and the effective achieved status of women . . . ." Taubenfeld, supra note 2, at 130. President Ford stated that:

International Women's Year is not just for women. It is for all people dedicated to seeing that the highest potential of each human being is achieved.

I hope the Commission, which I will name, together with leaders of the Congress, will infuse the Declaration of Independence with new meaning and promise for women here and around the world.

Id. At the beginning of the conference the head of the United States delegation, Mrs. Hutar, delivered a message from Mrs. Gerald Ford to the delegates, which read in part:

As my husband said on the occasion of announcing our own National Commission for the Observance of International Women's Year, the search to secure rights for women frees both sexes from restrictive stereotypes. Liberation of the spirit opens new possibilities for the future of all individuals and of all nations . . . .

I know that the leaders of the U.S. delegation will work unceasingly with you in the spirit of cooperation to make the Conference on International Women's Year a landmark in the history of women's affairs and of humanity's search for peace and understanding.

Bull. No. 1886, supra note 3, at 233. Mrs. Hutar added her own statement which related the problems to be solved by the conference:

Basically, the issue and challenge which we face is to develop and utilize the untapped potential of over half the world's population. There is a great scarcity of women in policymaking positions in the world. Women remain significantly absent from high-level posts in governments, in international affairs, in the professions, and in business.


The World Plan of Action for the Implementation of the Objective of the International Women's Year, which was adopted by the conference on July 2 without a vote, recommended a solution to this lack of women in policymaking positions:

The integration of women in development will necessitate widening their activities to embrace all aspects of social, economic, political and cultural life. They must be provided with the necessary technical training to make their
conference fell far short of accomplishing any such goal. In part, the political overtones that permeated the conference caused this failure. Lack of a cohesive strategy on the part of the major countries, especially the United States, allowed the conference to focus on political issues other than women's rights. The United States delegation also evidenced symptoms of being unprepared and unwilling to assume a leadership role. Until the advent of the Carter administration, these symptoms appeared to pervade United States foreign policy in the area of women's rights. Consequently, this article's purpose is to make suggestions regarding the incorporation of women's rights into the international policy of the United States—particularly in light of President Carter's emphasis on human rights issues.

In his inaugural address on January 22, 1977, President Carter stated:

Because we are free, we can never be indifferent to the fate of freedom elsewhere. Our moral sense dictates a clear-cut preference for those societies which share with us an abiding respect for individual human rights.

contributions more effective in terms of production, and to ensure their greater participation in decision-making, planning and implementation of all programmes and projects. Full integration also implies that women receive their fair share of the benefits of development, thereby helping to insure a more equitable distribution of income among all sectors of the population.


10. See id. at 237-38. In general, international conferences are susceptible to becoming sidetracked by irrelevant "political" issues. "One of the methods best calculated to cause dissention and to frighten off states from becoming parties to [definite treaties] ... is to pursue short-term political objectives at the expense of maintaining the integrity of the law ... ." Baxter, Humanitarian Law or Humanitarian Politics? The 1974 Diplomatic Conference on Humanitarian Law, 16 HARV. INT'L L.J. 1, 25 (1975). This appears to be what happened at the conference on IYW.

11. See Statement of July 2, supra note 9, at 237-38. The conference also was hindered by a lack of funds. It is readily apparent that the United States did not give the attention to the conference which the conference deserved. For example, the United States contributed only $100,000 toward funding the conference. It should be noted that total funding pledged for the conference amounted to only $400,000 by the spring of 1975; whereas, the funding for Human Rights Year was $2 million and funding for World Population Year was $3.5 million. Taubenfeld, supra note 2, at 125-26 n.2.

12. See generally BULL. No. 1886, supra note 3, at 233-38.


14. Id.
The beginning of President Carter's administration heralded a major change in the direction of United States foreign policy. Because world stability was the primary foreign policy goal of both the Ford and Nixon administrations, they emphasized realistic, but essentially amoral, negotiation and compromise. The Carter administration, however, sought to reassert the position of the United States as an international moral leader by reordering its foreign policy priorities. Unfortunately, since his inauguration, President Carter has focused on Soviet dissidents and apartheid issues to the exclusion of women's rights.

Historically, the United States has had few specific international commitments to further women's rights. In-depth analysis, however, shows that even though the United States is only weakly bound, by specific treaties or conventions, to international women's rights per se, it is more strongly bound to specific human rights. These human rights commitments expressly and impliedly incorporate women's rights. Because women's rights are an integral part of human rights issues, furtherance of the human rights cause should necessarily include women's rights. This article will first examine the history of the United States' commitment to human rights as it relates specifically to women's rights. Then it will analyze the specific human rights treaties to which the United States is bound, even though most of them are only tangentially related. Finally, it will discuss United States foreign policy with regard to women's rights from the perspective of these first two areas. Thus, a secure and cohesive recommendation regarding future United States foreign policy in the area of women's rights should emerge.

The United States needs a definitive and active foreign policy with regard to women's rights because:

Discrimination based on sex is the most widely known kind of discrimination. It is found in all developed and developing societies, either openly or covertly, and it is manifested in diverse forms. The time is long overdue for women to eliminate discrimination based on sex. No rhetoric, however attractive it may be,

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should postpone the achievement of equal rights and responsibilities for women.¹⁸

United States foreign policy cannot afford to hesitate in the area of women's rights. The following analysis of international treaties and documents will demonstrate that the United States has ample treaty precedent to take the women's rights initiative in the international arena.

II. UNITED NATIONS DOCUMENTS

A. General Documents

1. The U.N. Charter and Related Documents

The United States is a party to two of the three main documents dealing with international human rights and concomitant women's rights. In order of their dates of becoming effective for the United States, they are:

b. The Constitution of the United Nations Educational, Scientific and Cultural Organization [hereinafter UNESCO Constitution],²⁰ and

In the area of international law, these three documents are the most important with regard to women's rights because all other women's rights documents are based on them.²²

In today's world the U.N. Charter is the basis of most generally accepted international legal principles.²³ The Preamble to the U.N. Charter begins as follows:

²³. See Fundamental Freedoms, supra note 22, at 1-12.
WE THE PEOPLES OF THE UNITED NATIONS DETERMINED to save succeeding generations from the scourge of war which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small. \ldots \ldots 24

The first clause is familiar to millions, but it often overshadows the second clause, which deals with human rights. It is apparent, however, that the delegates who drafted the U.N. Charter felt that the cause of human rights and, more specifically, women's rights was worthy of being second in priority. This priority is reaffirmed in article 1, paragraph 3, of the U.N. Charter, which states that one purpose of the U.N. is:

To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion \ldots \ldots 25

Article 7 of the U.N. Charter establishes the subsidiary organs of the U.N., such as the General Assembly and the Security Council, 26 and article 8 states that "[t]he United Nations shall place no restriction on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs." 27 Article 13, which deals with the establishment of the General Assembly, states that "[t]he General Assembly shall initiate studies and make recommendations" 28 for the purpose of "promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." 29

Under article 55 the U.N. is also directed to promote "universal respect for, and observance of, human rights and fundamental

24. U.N. CHARTER preamble, cl.2 (emphasis added). For an analysis of this clause see Taubenfeld, supra note 2, at 131-32. The introduction of the Women's World Plan of Action cites specifically to this clause. Women's World Plan of Action, supra note 8, at ¶ 1.
25. U.N. CHARTER art. 1, para. 3 (emphasis added). "Article 1 (3) elevated the promotion of human rights and fundamental freedom without distinction as to race, sex, language or religion to become a major purpose of the Organization." McKean, supra note 17, at 178.
27. Id. art. 8 (emphasis added).
28. Id. art. 13, para. 1.
29. Id. para. 1(b) (emphasis added).
freedoms for all without distinction as to race, sex, language, or religion."  

Although most experts in the area of international women's rights recognize the importance of the U.N. Charter, many important writers appear to have missed the significance of the UNESCO Constitution and the ILO Constitution. Like the U.N. Charter, the UNESCO Constitution gives priority to human rights. Article I, paragraph 1, of the UNESCO Constitution states:

1. The purpose of the Organization is . . . to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction as to race, sex, language or religion, by the Charter of the United Nations.

Article I reinforces this priority in paragraph 2(b), which states:

2. To realize this purpose the Organization will:
   (b) give fresh impulse to popular education and to the spread of culture;

by instituting collaboration among the nations to advance the ideal of equality of educational opportunity without regard to race, sex or any distinctions, economic or social

The ILO Constitution also specifically mentions the rights of women. In its preamble, the ILO Constitution states that one of the means by which labor conditions are to be improved is through "the protection of children, young persons and women . . . ." The ILO Constitution also provides that the conference of delegates that guides the International Labour Organization (ILO) must follow certain guidelines with regard to women. Each delegate may be accompanied by two advisers for each item on the agenda, and "[w]hen questions specially affecting women

30. Id. art. 55 (emphasis added). Articles 56, 62(2), and 76(c) also relate to women's rights. Id. arts. 56, 62, & 76.  
33. UNESCO CONSTITUTION, supra note 20, at art. 1, para. 1 (emphasis added).  
34. Id. para. 2(b) (emphasis added).  
35. ILO CONSTITUTION, supra note 21, preamble.
are to be considered by the Conference, one at least of the advisers should be a woman." Article 9, paragraph 3, also states that out of the total ILO staff personnel "[a] certain number of . . . persons shall be women." Although it withdrew from the ILO in 1977, the United States should still be committed to the principles relating to women's rights as they are enumerated in the ILO Constitution.

The general principles found in these three major documents, however, have not been fully implemented. Secretary-General Waldheim acknowledged this problem when he stated:

Since the inception of the United Nations, the organization has been fully committed to the principle of equality between women and men, a principle which was established in the Charter of the United Nations in 1945 and in the Universal Declaration of Human Rights in 1948. But we must frankly admit that the gulf between formal acceptance of this principle and implementation in practice has been and still is very wide.

Because the U.N. has not eliminated discrimination against women even within its own confines, it may appear difficult to expect nations to fully protect women's rights, when the U.N. itself does not. The U.N.'s failing, however, does not vitiate the responsibility of nations to enforce the principles to which they have acceded. It must be remembered that "[b]ecause of the U.N. Charter and its human rights clauses, every nation has obli-

36. Id. art. 3, para. 2.
37. Id. art. 9, para. 3.
39. "In practice, the U.N. has consistently discriminated against females in opportunities for placement and promotion and it has discriminated against them seriously in fringe benefits as well." Taubenfeld, supra note 2, at 132. For a chart showing the areas and frequency of discrimination with the U.N., see K. DAVIDSON, R. GINSBURG, & H. KAY, SEX BASED DISCRIMINATION 933 (1974), adapted and reprinted in Taubenfeld, supra note 2, at 132. However, at the initiative of the United States delegation to the U.N., the U.N. Secretariat has now "set up a personnel committee to make sure that there shall be no discrimination against women in hiring or promotion within the U.N. Secretariat. The next step is to secure the establishment of other personnel committees throughout the entire U.N. system." Statement of June 20, supra note 8. On July 2, the Conference on IWY adopted a resolution entitled "Women in the Employ of the U.N." which condemned any type of discrimination against women within the U.N. organization. For a text of the resolution see BULL. No. 1886, supra note 3, at 238. Several other resolutions concerning women's rights were sponsored or cosponsored by the United States. For a list of these resolutions and their texts see id. at 238-60. For an overview on the status of women within the U.N., see Bruce, supra note 22, at 24. Discrimination against women has also pervaded the history of the American Society of International Law. Note, Women and the American Society of International Law, 1974 PROC. AM. SOC'y INT'L L. 290.
gations not to violate human rights." This means that nations cannot violate women's rights either.

2. The International Bill of Human Rights.

Scholars of international law have grouped four documents into what is popularly termed the "International Bill of Human Rights." The documents included in this group are:

a. the Universal Declaration of Human Rights [hereinafter Universal Declaration].

b. the International Covenant on Economic, Social, and Cultural Rights [hereinafter Economic Rights Covenant],

c. the International Covenant on Civil and Political Rights [hereinafter Civil Rights Covenant],

d. the Optional Protocol to the International Covenant on Civil and Political Rights [hereinafter Optional Protocol].

Although the United States is not a party to any of the four documents comprising the International Bill of Human Rights, their provisions are important because the United States may become a signatory to them in the future.

40. Newman, Editorial, 5 Human Rights J. Int'l & Comp. L. 283 (1972). In an issue of the American Journal of International Law, Egon Schwelb explains how this conclusion (i.e., that every nation has obligations not to violate human rights) has been endorsed by the International Court of Justice in its 1971 Nambia opinion. See Schwelb, The International Court of Justice and the Human Rights Clauses of the Charter, 66 Am. J. Int'l L. 337 (1972); Newman, supra. This is important because it means that obligations not to violate human rights are undergoing a metamorphosis into the status of "international law."


The Preamble to the Universal Declaration states:

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom . . . .

This language is similar to that found in the Preamble to the U.N. Charter and is not one of the reasons the United States has foregone ratifying the Universal Declaration. In fact, none of the passages hereinafter quoted have hindered acceptance by the United States. Consequently, it appears that the United States has impliedly agreed to the women's rights provisions, at least in principle.

The first three articles of the Universal Declaration directly support women's rights. The first sentence of article 1 states that "[a]ll human beings are born free and equal in dignity and rights," and the first paragraph of article 2 states that "[e]veryone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, [or] sex . . . ." Similarly, article 3 states in toto that "[e]veryone has the right to life, liberty and the security of person." Thus, the Preamble and first three articles relate directly to the area of women's rights. Furthermore, article 7 contains an equal protection clause similar to that of the United States Constitution. Article 16 specifically protects the family and the right to marry without restriction, and article 25 protects mothers and children.


49. See Ferguson, supra note 47, at 83; Haight, supra note 47, at 96.

50. The exceptions to this blanket statement would be in the area of race. See generally Bitker, The Constitutionality of International Agreements on Human Rights, 12 SANTA CLARA LAW. 279 (1972).

51. See Guggenheim, supra note 31, at 66-72; Lasswell, supra note 31, at 511-12, 531-33.

52. Universal Declaration, supra note 42, art. 1.

53. Id. art. 2 (emphasis added).

54. Id. art. 3.

55. Id. art. 7. Article 7 states in toto that "[a]ll are equal before the law and are entitled to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination." Id.

56. Id. art. 16.

57. Id. art. 25. For more information on the Universal Declaration, see INTERNATIONAL PROTECTION, supra note 22, at 4; Bitker, supra note 50, at 279; Chairman's Report, 1 INT'L
The Preamble to the Economic Rights Covenant\textsuperscript{58} cites to both the U.N. Charter and the Universal Declaration as precedent and as authority to recognize “the equal and inalienable rights of all members of the human family . . . .”\textsuperscript{59} This protection of human rights is expressly confirmed in article 2, paragraph 2, which states that “[t]he States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, [or] sex . . . .”\textsuperscript{60} Article 3 specifically applies this principle to the area of women’s rights by asserting that “[t]he States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.”\textsuperscript{61} Equal wages for women are guaranteed in article 7,\textsuperscript{62} and

\begin{thebibliography}{9}
\bibitem{Economic} The Economic Rights Covenant came into effect in 1975 and has been ratified by 37 countries. Guggenheim, supra note 31, at 7; see Lasswell, supra note 31, at 511-12.
\bibitem{Economic2} Economic Rights Covenant, supra note 43, preamble.
\bibitem{Equal} \textit{Id.} art. 2, para. 2 (emphasis added).
\bibitem{Equal2} \textit{Id.} art. 3 (emphasis added).
\bibitem{Specific} Article 7 states specifically that:
\begin{quote}
The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:
\begin{itemize}
\item[(i)] Fair wages and equal remuneration for work of equal value without
\end{itemize}
\end{quote}
\end{thebibliography}
article 10 provides protection for families, mothers, and children. Of the four documents comprising the International Bill of Human Rights, the Civil Rights Covenant has the greatest number of provisions dealing with the protection of individual rights and women’s rights. In article 2, paragraph 1, the Civil Rights Covenant states that “[e]ach State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, [or] sex . . . .” Article 6, paragraph 5, provides for pregnant women in criminal matters, and article 8 prohibits slavery. There are two “equal protection” articles, article 14 and article 26. Article 14, paragraph 1, is the general equal protection clause, providing in part that “[a]ll persons shall be equal before the courts and tribunals.” Article 26 specifically mentions sex as a criteria:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, [or] sex . . . .

Protection of the family and of the right to marry without re-

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Id. art. 7 (emphasis added).
63. Id. art. 10, para. 1.
64. Id. para. 2.
66. The Civil Rights Covenant came into effect on March 23, 1976, after the required 35 countries ratified it. Guggenheim, supra note 31, at 5; see Lasswell, supra note 31, at 511-12.
67. Civil Rights Covenant, supra note 44, art. 2, para. 1 (emphasis added).
68. “Sentence of death . . . shall not be carried out on pregnant women.” Id. art. 6, para. 5. For a discussion of human rights in international criminal law, see Woetzel, supra note 57, at 117.
69. Civil Rights Covenant, supra note 44, art. 8. The importance of “slavery” provisions will become apparent later in this article.
70. Id. art. 14, para. 1.
71. Id. art. 26 (emphasis added).
72. Id. art. 23, para. 1.
striction are found in article 23. A further unusual provision specifically protects children from sex discrimination: "Every child shall have, without any discrimination as to race, colour, [or] sex . . . the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State." This protection of children from sex discrimination evidences a high level of evolution in the realm of international women's rights. It is an unexpected level of sophistication, because women's rights is a relatively new area in international law.

The Optional Protocol is the means to enforce the Civil Rights Covenant. A country may, however, become a party to the Civil Rights Covenant without acceding to the Optional Protocol. In fact, by December 31, 1971, thirteen countries had acceded to the Civil Rights Covenant but only six had acceded to the Optional Protocol.

These four documents constitute not only an "International Bill of Human Rights," but also an "International Bill of Women's Rights," in lieu of a generally accepted convention that relates specifically to women. Although women's rights are an integral part of human rights, there is ample international precedent to the effect that any human rights declarations should necessarily include specific provisions relating to women's rights. Thus, any human rights initiatives the United States takes should include provisions for women's rights or they will lack international credibility.

3. Incorporation by Reference in International Declarations

Other general documents important to international law incorporate human rights and women's rights provisions by reference to the U.N. Charter, the UNESCO Constitution, the ILO

73. Id. paras. 2 & 3.
74. Id. art. 24, para. 1 (emphasis added).
75. See Taubenfeld, supra note 2, at 125. For more information on the Civil Rights Covenant, see Halperin, supra note 65, at 770; Hassan, supra note 57, at 35; Robertson, The United Nations Covenant on Civil and Political Rights and the European Convention on Human Rights, 43 B.R.T. Y.B. Int'l. L. 21 (1970); Starr, supra note 57, at 863, 865-68; Taubenfeld, supra note 2, at 125, 134; Note, supra note 65, at 106.
77. Id. at 63. It should also be noted that another "effective achievement in the international protection of fundamental freedoms is the European Convention on Human Rights which has been in force for fifteen years and, today, is binding in sixteen European States." Russo, supra note 57, at 754.
Constitution, and/or the International Bill of Human Rights. These general documents are important because they have received international acceptance on a wider scale than the four documents constituting the International Bill of Human Rights. The most important world-wide plans are:

a. the Declaration on Social Progress and Development [hereinafter Progress Declaration],
c. the Declaration on the Establishment of a New International Economic Order [hereinafter New Economic Order Declaration],
d. the World Population Conference.

The preamble to the Progress Declaration cites to the U.N. Charter, the standards set by UNESCO and ILO, and the International Bill of Human Rights. Article 1 of the Progress Declaration states that "[a]ll peoples and all human beings, without distinction as to race, colour, [or] sex . . . shall have the right to live in dignity and freedom and to enjoy the fruits of social progress and should, on their part, contribute to it." The Implementation of the Declaration on Social Progress and Development asserts "that the Declaration shall be taken into account in the development of strategy for the Second United Nations Development Decade . . . ."

Thus, the Development Strategy was founded in the Progress Declaration and its forerunners. The Development Strategy states specifically that "[t]he full integration of women in the total development effort should be encouraged." Similarly, the New Economic Order Declaration and the Programme of Action

78. See Bassiouni, supra note 57, 271-85.
83. Progress Declaration, supra note 79, preamble.
84. Id. art. 1 (emphasis added).
86. Id. para. 2.
87. Development Strategy, supra note 80, at 41.
88. See New Economic Order Declaration, supra note 81, at 3.
on the Establishment of a New International Economic Order\textsuperscript{89} look to human rights and women’s rights precedents.

The World Population Conference based itself firmly on the New Economic Order Declaration and also looked to the other precedents mentioned earlier.\textsuperscript{90} The World Population Conference fostered the World Population Plan of Action\textsuperscript{91} and other documents developed simultaneously. These other documents included the Charter of Economic Rights and Duties of States\textsuperscript{92} and the Declaration on Women and Development.\textsuperscript{93} This latter declaration is important in that it:

1. \textit{Calls upon} the United Nations system to provide increased assistance to those programmes, projects and activities which will encourage and promote the further integration of women into national, regional and inter-regional economic activities;
2. \textit{Recommends} to all organizations concerned within the United Nations system to review their work and personnel programmes in order to assess their impact on the further participation of women in development and their integration in professional and policy-making positions, taking fully into account equitable geographic distribution \ldots \textsuperscript{94}

Thus, the international trend regarding women’s rights is evident. The general provisions found in the U.N Charter, the UNESCO Constitution, and the ILO Constitution led to the four documents that comprise the International Bill of Human Rights. In their turn, the major international documents cited in this section have incorporated these general principles regarding women’s rights and human rights by referring specifically to the earlier instruments. Although these newer documents deal primarily with topics other than women’s rights, they demonstrate that the earlier principles regarding women’s rights have achieved widespread recognition and acceptance. By referring to the general principles in the U.N. Charter, the UNESCO Constitution, the ILO Constitution, and/or the International Bill of Human Rights, these newer documents are reaffirming the older human rights principles, building on them, and refining them for

\textsuperscript{90} World Population Conference, supra note 82, at 69.
\textsuperscript{91} U.N. Doc. E/CONF.60/19.
inclusion in future documents. These newer pronouncements regarding women's rights are also worded in more specific language. More importantly, a large part of the international community has accepted these newer, more specific principles by accepting the documents in which they are found. The various interrelationships between all of these documents are complicated, but it is clear that from these documents evolved the U.N. instruments relating specifically to the status of women.

B. Documents Relating Specifically to the Status of Women

There are five main U.N. documents relating specifically to the status of women. They are:

a. the Convention on the Political Rights of Women [hereinafter Political Rights Convention], 95
b. the Convention on the Nationality of Married Women [hereinafter Nationality Convention], 96
c. the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages [hereinafter Marriage Convention], 97
d. the Declaration on the Elimination of Discrimination Against Women [hereinafter Discrimination Declaration], 98
and
e. the Programme of Concerted International Action for the Advancement of Women [hereinafter Action Programme]. 99

Although the United States is a party to only one of these five documents, each is important in the area of international women's rights.

The Political Rights Convention was the first major convention in the area of women's rights. It was designed "to implement the principle of equality of rights for men and women"100 and "to equalize the status of men and women in the enjoyment and exercise of political rights, in accordance with the provisions of the Charter of the United Nations and of the Universal Declara-

96. 309 U.N.T.S. 65 (done Feb. 20, 1957) [hereinafter cited as Nationality Convention].
100. Political Rights Convention, supra note 95, preamble, para. 1.
The first three articles of the Political Rights Convention are especially cogent. Article 1 states that "[w]omen shall be entitled to vote in all elections on equal terms with men, without any discrimination," and article 2 states that "[w]omen shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination." The important "right of participation" is found in article 3, which provides that "[w]omen shall be entitled to hold public office and to exercise all public functions, established by national law, on equal terms with men, without any discrimination." In 1976, the Political Rights Convention became the first and only international convention relating specifically to women's rights that the United States ratified. The convention was adopted by the U.N. General Assembly in 1952 and 78 countries ratified it prior to the United States. The significance of the 1976 ratification by the United States appears to be considerable. "For the first time the United States has affirmed in a binding international agreement that women's rights, as one aspect of human rights, are a matter of international concern and an appropriate subject for treaty action." Although the Political Rights Convention is designed to give political rights to women, the purpose of the Nationality Convention is to eliminate conflicts of law that arise "as a result of marriage, of its dissolution, or of the change of nationality by the husband during marriage." Article 1 attempts to remedy these conflicts by providing that none of them "shall automatically affect the nationality of the wife." Similarly, the purpose of the Marriage Convention is to promote "human rights and fundamental freedoms for all, without distinction as to race, [or] sex . . . ." It is important to note that in this language the Marriage Convention refers to the human rights precedents. This is

101. Id. para. 2.
102. Id. art. 1.
103. Id. art. 2.
104. Id. art. 3.
107. Id. at 1.
108. Id.
109. Nationality Convention, supra note 96, preamble.
110. Id. art. 1.
111. Marriage Convention, supra note 97, preamble.
true of all the women's rights conventions. It is within these conventions that the transition from human rights to women's rights is realized.

These conventions culminated in strong programs in support of women's rights. The bases of these programs are the Discrimination Declaration and the Action Programme. The Discrimination Declaration provides that "[d]iscrimination against women, denying or limiting as it does their equality of rights with men, is fundamentally unjust and constitutes an offence against human dignity." The Action Programme is the means to implement these principles during the Second Development Decade. These programs are essential to eliminating the inferior status to which women have been relegated in all countries.

Again the historical progression is clear. These five conventions evolved from the U.N. documents discussed in the previous sections. They demonstrate the trend away from conventions enumerating general principles and toward conventions enumerating specific principles in a particular area of women's rights. More importantly, as the conventions become more specific they are gaining more support among those countries that have been traditionally allied with the United States. Although documents comprising the International Bill of Rights have had a few notable adherents, such as the Federal Republic of Germany, Norway, Sweden, and the USSR, the more specific conventions mentioned in this section have claimed most of the NATO countries as adherents. For example, Canada, France, and the United

112. Discrimination Declaration, supra note 98, art. 1.
115. MULTILATERAL TREATIES IN RESPECT OF WHICH THE SECRETARY GENERAL PERFORMS DEPOSITORY FUNCTIONS 90, 95-96 (Dec. 31, 1974) [hereinafter cited as TREATIES]; see Guggenheim, supra note 31, at 5 n.30, 7 n.56.
116. TREATIES, supra note 115, at 338, 379-81, 388-89; see Guggenheim, supra note 31, at 8 n.65, 17 n.133, 18 n.139.
Kingdom have demonstrated a disposition toward acceding to these specific conventions, but the United States has not. Thus, it could be claimed that the Carter administration's initiatives in the area of human rights are more show than substance.

C. Specialized Documents of International Organizations

Brief mention should be made of the specialized documents issued by international organizations. The main international organizations that affect international law are the subsidiary organizations of the U.N., and the specialized documents they issue are based on U.N. conventions. They, therefore, circulate and promulgate the ideas fostered by the U.N. The two U.N. organizations most active in the area of human rights and women's rights are UNESCO and ILO. They have initiated many important conventions and regulations, but in the area of women's rights the three most important are:

a. the Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value [hereinafter Equal Wage Convention];
b. the Convention Concerning Discrimination in Respect of Employment and Occupation [hereinafter Equal Employment Convention]; and
c. the Convention Against Discrimination in Education [hereinafter Equal Education Convention].

The first two of these conventions were sponsored by ILO, and the third was sponsored by UNESCO.

The Equal Wage Convention binds each member country to "ensure the application of equal remuneration for men and women workers for work of equal value." The Equal Employment Convention (EEC) defines "discrimination" to prohibit "any distinction, exclusion or preference made on the basis of

117. See notes 114-16 supra.
119. 165 U.N.T.S. 303 (adopted June 29, 1951) [hereinafter cited as Equal Wage Convention].
race, colour, [or] sex . . . . "123 Article 5 of the Equal Employment Convention provides special protection on the basis of sex.124 Like the Equal Employment Convention, the Equal Education Convention prohibits discrimination and defines it as being "any distinction, exclusion, limitation or preference . . . based on race, colour, [or] sex . . . ."125 Thus, within their specific spheres of operation both ILO and UNESCO have fostered women's rights. This evolutionary trend toward women's rights was further demonstrated in a 1977 EEC decision stating that article 119 of the Treaty of Rome,126 requiring equal pay for equal work, has a direct effect upon the national law of member countries.127 Although the United States has not ratified any of these three specialized U.N. documents, many Western countries have.128 Accordingly, it is appropriate to examine the general effect of U.N. documents on international law and to explore the reasons why the United States continues to ignore most of them.

III. THE EFFECT OF INTERNATIONAL INSTRUMENTS ON INTERNATIONAL LAW

Of the aforementioned international instruments, the United States is a party only to the U.N. Charter, the UNESCO Constitution, and the Political Rights Convention.129 Consequently, the ability of certain international instruments to bind member countries to collateral instruments becomes an important question. As a general rule, there is no express binding effect between a primary instrument that a particular country has signed and a collateral instrument that a particular country has not signed. The advent of the U.N. Charter, however, began a new era in international law. Thus, some of the new concepts that have developed in the past twenty years need to be examined.130

There are two revolutionary concepts inherent in the interna-

123. Equal Employment Convention, supra note 120, art. 1, para. 1.
124. Id. art. 5, para. 2.
125. Equal Education Convention, supra note 121, art. 1, para. 1.
128. U.S. DEPT OF STATE, TREATIES IN FORCE (1977); International Labour Convention, Chart of Ratifications (Jan. 1, 1974); see Guggenheim, supra note 31, at 9-17, 10 n.76, 11 n.84, 14 nn.104 & 109, 15 n.117, 16 nn.123 & 125.
130. See FUNDAMENTAL FREEDOMS, supra note 22, at 1-16; Newman, supra note 40, at 283-85.
tional law of human rights. The first of these is "the recognition of the individual as a subject of relevance to international law regardless, or even in spite of, nationality ties . . . ." A natural corollary to this is the second concept, which recognizes "the establishment by conventional international law of a real system of control on States' compliance with Human Rights obligations as to all persons within their jurisdiction, aliens, stateless and nationals."

The natural law theory defines international human rights to include life, liberty, human dignity, and justice. Beyond that, however, all that which touches upon the quality of life, in an inclusive sense, is ultimately a question of human rights. Human rights and women's rights can be treated as synonymous because, according to the sociological theory, both are "inalienable rights of mankind," and "they have been recognized as world community aspirations because they emanate from the basic values of mankind." However, the natural law theory and the sociological theory were basically the same and they both yielded the same result. Once it was accepted that the individual was "a recognized subject of the international legal order, it followed that basic human rights could no longer be violated by authoritative decisionmakers . . . ."

Before trying to interpret or analyze human rights provisions, it is important to keep in mind that the different terminology used in international documents should be construed liberally. The titles to the documents themselves are often misleading. "Contractual engagements between states are called by various names—treaties, conventions, pacts, acts, declarations, protocols. None of these terms has an absolutely fixed meaning . . . ." In other words, each document should be individually examined for its effect. Only "treaties," however, have an effect upon countries that can be termed "legally binding."

131. Russo, supra note 57, at 749.
132. Id.
133. Id.
135. Id. at 271.
136. Id. at 271-72.
137. Id. at 272.
138. Id. at 273.
139. Hassan, supra note 57, at 35-50.
140. Note, supra note 65, at 106, 107 n.8.
tions of the U.N. General Assembly and the U.N. Security Council are only binding to the extent that the resolution affects the actions of the U.N. and its subsidiary organs.143 If a U.N. resolution is meant to attain a "treaty" status, it will be "opened for signature." Then countries that intend to become bound by the treaty will sign it. Thus, a country may vote to have a General Assembly resolution opened for signature as a treaty and yet never sign it. This is extremely common and, as a general rule, no stigma attaches to a country that pursues this course of action. The only middle ground between signing and not signing a multilateral treaty is signing the treaty subject to a condition or reservation.144 In such a case, a country is bound only to the extent the "condition" allows.145

In interpreting an international document, especially a treaty, the following factors should be considered:

a. the context of the treaty,
b. its objects and purposes,
c. its preparatory work,
d. the circumstances of drafting it,
e. special meanings,
f. related instruments,
g. subsequent interpretation and practice, and
h. the relevant rules of international law.146

When considering the human rights provisions of the U.N. Charter, an analysis of "the words themselves"147 and "the precedents that unwrap them"148 is especially important. Jacob Robinson has done an in-depth analysis of the human rights provisions in the U.N. Charter, and the problems of interpreting those provisions dealing specifically with women's rights appear to be minimal.149 The exception appears to be in interpreting the meaning of "discrimination."150 "In general . . . traditional international law did not set out to regulate a State's treatment of its own nationals and was, in consequence, indifferent as to whether or how a State might discriminate against a . . . group amongst

144. See generally U.S. Dep't of State, Treaties in Force (1977).
145. Id.
146. Hassan, supra note 57, at 35, 37-44.
148. Id.
149. Fundamental Freedoms, supra note 22, at 65-93.
150. See McKean, supra note 17, at 177.
its peoples.” Many interpretations have been given to the term “discrimination” as distinguished from “differential treatment” or “distinction.” However, as was pointed out earlier in the discussion of the Equal Employment Convention, the term “discrimination” is being defined within the newer international instruments. Consequently, many problems of interpretation are disappearing. Such international giants as Myres McDougal and Harold Lasswell have called for the “outlawing” of all sex-based discrimination.

There is still, however, a need to clarify international human rights principles. Once clarification occurs, it will be easier to formulate international law that is binding on all countries. The U.N. Charter has almost achieved the status of an international law per se, because it has been universally accepted. In 1968, the International Conference on Human Rights unanimously voted similar status for the Universal Declaration of Human Rights. However, this constituted bootstrapping. The Universal Declaration is definitely not “international law.” Even so, certain human rights provisions in the U.N. Charter have been declared “international law” by the International Court of Justice (ICJ).

Although the ICJ’s jurisdiction is limited, the Court’s interpretation constitutes a significant step toward clarification. With these limitations in mind, it is easier to view the past actions of the United States in their proper perspective.

151. Id.
152. Id. at 180-81.
153. See text accompanying notes 123-25 supra.
154. Lasswell, supra note 31, at 497.
156. See note 155 supra. See generally FUNDAMENTAL FREEDOMS, supra note 22, at 1-16.
157. Taubenfeld, supra note 2, at 134.
158. Schwelb, supra note 40, at 337-51. It is important to note that a U.N. Security Council resolution has been upheld by a United States court. This may portend the acceptance of international U.N. resolutions as a type of international law; however, this is the exception—not the rule. Note, Security Council Resolution in United States Courts, 50 IND. L.J. 83 (1974).
159. Schwelb, supra note 40, at 337-51.
IV. UNITED STATES FOREIGN POLICY AND WOMEN'S RIGHTS

A. United States Treaties in Force That Relate to the Status of Women

The number of United States treaties relating to the status of women is small. Prior to 1976, the United States was not bound to any of the major conventions specifically guaranteeing women's rights. Considering the number of international instruments relating to women's rights, the United States should have ratified more conventions in this area.

The prime convention to which the United States is now bound is the Convention on the Nationality of Women. Its provisions are similar to those of the Nationality Convention, but its protection of women's rights, other than the right of a woman to maintain her nationality, is nonexistent. Ironically, the only international commitments to which the United States legally is bound are those conventions relating to involuntary servitude.

Chronologically, the involuntary servitude conventions binding the United States are:

a. the General Act for the Repression of the African Slave Trade,

b. the Agreement for the Repression of the Trade in White Women,

c. The Convention Revising the General Act of Berlin of February 26, 1885, and the General Act and Declaration of Brussels of July 2, 1890,

d. the International Convention to Suppress the Slave Trade and Slavery,


162. See text accompanying notes 97, 110 & 111 supra.
164. 27 Stat. 886 (1891-93), T.S. No. 383 (effective Apr. 2, 1892, subject to a statement).
165. 35 Stat. 1979 (1907-09), T.S. No. 496, 1 L.N.T.S. 83 (effective June. 6, 1908).
166. 49 Stat. 3027 (1935-36), T.S. No. 877, 8 L.N.T.S. 27 (effective Oct. 29, 1934, subject to an understanding).
167. 46 Stat. 2183 (1929-31), T.S. No. 778, 60 L.N.T.S. 253 (effective Mar. 21, 1929, subject to a reservation).
f. the Protocol Amending the Slavery Convention, and
g. the Supplementary Convention on the Abolition of Slavery,
the Slave Trade, and Institutions and Practices Similar to Slavery.

Even though the United States is a party to these seven conventions, the United States is not a party to three of the four main related conventions. The traditional reluctance of the United States to accede to conventions dealing with human rights is difficult to understand.

B. An Analysis of United States Foreign Policy Concerning the Status of Women

In the realm of human rights and women's rights, the U.N. Charter, the UNESCO Constitution, and the Political Rights Convention are the only major international documents to which the United States has acceded. There appear to be four main reasons why the United States has not signed more.

First, the leaders in the United States Congress seem to feel that to internationalize the human rights problems of the United States would create bigger problems internally. This is especially true of the human rights areas dealing with race and sex discrimination. This type of xenophobia resulted in the Bricker Amendment, which limited the treaty-making power of the United States. "The major targets of Senator Bricker's attack

171. The United States is a party to the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, but the United States is not a party to the following:
   a. the International Convention for the Suppression of the Traffic in Women and Children, 9 L.N.T.S. 415 (opened for signature Sept. 31, 1921);
   b. the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 96 U.N.T.S. 271 (opened for signature Mar. 21, 1950); and
174. Id. at 612-14.
175. Id. at 612.
were the human rights conventions that the United Nations had already adopted and the proposed International Covenants on Human Rights that seemed to be nearing completion at the time."\textsuperscript{176}

The second reason, which is a natural corollary to the first, is that many people, including Congressional leaders, feel there is no genuineness in the human rights conventions.\textsuperscript{177} They believe that some countries will become parties to the conventions and then not implement them.\textsuperscript{178}

The third reason involves potential conflicts between the human rights conventions and the United States Constitution.\textsuperscript{179} Some authorities, however, believe that because "the standards of the United States Constitution are generally higher than those of the human rights covenants, the impact . . . will be felt primarily in other countries."\textsuperscript{180} Adherence to the human rights covenants might "promote the growth of democratic institutions abroad"\textsuperscript{181} and "lead to a strengthening of the rule of law on an international scale."\textsuperscript{182}

The fourth reason deals with the constitutional relationship between the federal government and the states. Senators and Congressmen are reluctant to allow the executive branch unlimited discretion in the conduct of foreign affairs.\textsuperscript{183} Because the United States Senate must ratify all treaties, there is a check on the conventions to which the United States can accede.\textsuperscript{184} In any event, there has been widespread opposition to human rights conventions.\textsuperscript{185}

Americans "have long insisted that they were the principal drafters"\textsuperscript{186} of the major human rights instruments. "With that in mind it is difficult to understand why the United States has dragged its feet in ratifying human rights treaties."\textsuperscript{187} It appears

\textsuperscript{176} Id. at 613.
\textsuperscript{177} Id. at 612-14.
\textsuperscript{178} Id.
\textsuperscript{180} Starr, supra note 57, at 863, 890.
\textsuperscript{181} Id.
\textsuperscript{182} Id.
\textsuperscript{183} See Buergenthal, supra note 173, at 612-14.
\textsuperscript{184} Id.
\textsuperscript{185} Id.; see Chairman's Report, supra note 57, at 521, 526-31; Editorial, supra note 57, at 589, 606-11, 620-29; Ferguson, supra note 47, at 83, 84-96; Haight, supra note 47, at 96, 97-103.
\textsuperscript{187} Id. See also Baxter, \textit{Humanitarian Law or Humanitarian Politics? The 1974
that "[h]uman rights are the stepchildren of United States foreign policy."188 However, until the advent of the Carter administration, it appeared that Sweden was the only country "to regard the promotion of human rights as a central foreign-policy objective."189

No matter what the cause, it was clear that until recently, international human rights issues did "not receive in the Department of State, the professional attention and resources commensurate with their growing importance."190 This viewpoint was challenged by Louis Henkin who believed that "[t]he United States . . . [was] second to no other major country in the international effort to establish, promote, and maintain human rights."191 Most authorities, however, disagreed with Henkin and argued that the United States could and should have been doing more.192 It was "difficult to conceive of the development of an effective human rights system without the active and affirmative participation of the United States."193

The most succinct exposition of the Carter administration's human rights policy was advanced by Secretary of State Vance on April 30, 1977, in a Law Day speech at the University of Georgia Law School.194 In his speech, Vance outlined: (1) the rights to be protected by the administration, (2) the precedents to be advanced in support of protecting human rights, (3) the sanctions to be utilized in condemning violations of human rights, and (4) the factors to be considered by the administration in implementing its policies.195

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189. Id.
190. Buergenthal, supra note 173, at 614.
193. Bilder, supra note 192, at 597; see Russo, supra note 57, at 749, 764.
195. Id. at 505-08. The Carter administration supposedly has accepted this interna-
Vance outlined three categories of human rights which the Carter administration sought to protect. First, it was the policy of the United States to support the right of every human being "to be free from governmental violation of the person." This basic right included freedom for torture, inhumane punishment, arbitrary imprisonment, invasion of the home, and/or denial of a fair public trial. Second, the policy was designed to support the right to basic necessities such as "food, shelter, health care, and education" that can be violated by a government's action or inaction. This second statement is ironic because the United States traditionally has failed to ratify those U.N. conventions that support this second principle. Third, Vance affirmed that there was a "right to enjoy civil and political liberties" similar to those in the Constitution of the United States. Although the first two categories cover general human rights, this last category has made the United States vulnerable to attacks from critics who claim that the United States is trying to "impose" its governmental principles on countries who do not want them or who are not yet ready for them. To counter any charges that the United States was trying to interfere in the internal affairs of other countries, Vance placed the responsibility for human rights protection on international law.

The precedents Vance cited in support of international human rights included the U.N. Charter, the Universal Declaration of Human Rights, and "ancient values." There are many U.N. instruments that support Vance's position, but the United States is a party to only a few of them.

Vance stated that the United States would utilize sanctions for human rights violations that ranged from "quiet diplomacy through public pronouncements, to withholding of assis-

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196. Id. at 505.
197. Id.
198. Id.
199. See notes 173-93 supra and accompanying text.
200. Vance Speech, supra note 194, at 505.
201. See Berger, Are Human Rights Universal?, COMMENTARY 60 (Sept. 1977).
202. Vance Speech, supra note 194, at 505-06.
tance." Although Vance did not specify what sanctions would be utilized for different violations in different countries, he did outline the factors to be considered in implementing Carter's policy.

First, the United States would consider the nature and type of the human rights violation. Second, the administration would assess the effectiveness of any proposed unilateral action, including its practical effect on the persons the United States was seeking to help. In the event no positive change could result, the administration would still consider its moral obligation "to speak out or take action . . . ." Third, the administration would assess the political and economic consequences of any proposed action by the United States, including the possibility of government retaliation against whomever the United States was trying to protect.

From Vance's statements, it appears that the United States is prepared to take action, particularly in the realm of egregious violations of human rights. Because the United States has not ratified any of the important human rights instruments in the U.N. system, however, the human rights policy of the United States borders on the hypocritical. A good place for the United States to start its ratification procedure is the Draft Convention on the Elimination of All Forms of Discrimination Against Women [hereinafter Women's Discrimination Convention], which is being prepared by the U.N. Commission on the Status of Women. Because it is still in the draft stage, the United States can and should try to influence the language of the Women's Discrimination Convention so that it will be acceptable to the United States Senate. Those who oppose ratification of the International Bill of Human Rights and the other U.N. documents mentioned in this article consistently have argued that the U.N. documents are in conflict with the Constitution of the

203. Id. at 506.
204. Id.
205. Id.
206. Id.
207. Id.
208. Id.
United States. Although this argument is specious, it is moot if the Carter administration takes the initiative with regard to the Women's Discrimination Convention. If the Carter administration is serious about human rights, the time to act has arrived.

Those engaged in the conduct of United States foreign affairs and particularly those representing the United States in the United Nations, have indicated that the United States' failure to ratify human rights treaties has exposed it to attack by other countries and has hurt its international standing. Ratification of any human rights treaties, including those on women's rights would no doubt improve the United States' international image. Moreover, since treaties become the supreme law of the United States, ratification of international treaties barring discrimination against women in various areas would bar such domestic discrimination and, to the extent that domestic law does not already do so, would enhance the rights of women.

With minor revisions, the Women's Discrimination Convention can easily accommodate the best aspects of all of the women's rights documents mentioned in this article. The precedents backing such action by the United States are many. The evolution of women's rights has reached a critical stage.

The United States is bound to uphold the women's right provisions in the U.N. Charter, the UNESCO Constitution, and the Political Rights Convention, because the United States is a party to each. The United States is also impliedly bound to the principles in the four documents that constitute the International Bill of Human Rights. Similarly, the United States is impliedly bound to those principles found in women's rights instruments subsequent to the International Bill of Human Rights. The series of involuntary servitude treaties also binds the United States to a history of women's rights. These international instruments provide strong impetus to the idea that the United States should pursue a strong foreign policy with regard to women's rights.

The United States has already done this on a "hemispheric level." Within the Organization of American States (OAS), the United States had pursued an active policy in the area of human

211. See notes 179-85 supra and accompanying text.
213. Id.
214. Id. at 67.
215. Id. at 41-66.
rights and women’s rights.\textsuperscript{217} It is now time to apply this policy to an “international level.” In the words of President Kennedy:

There is no society so advanced that it no longer needs periodic recommitment to human rights. The United States cannot afford to renounce responsibility for support of the very fundamentals which distinguish our concepts of government from all forms of tyranny . . . \textsuperscript{218}

Implementation and enforcement of women’s rights can and should be effectuated on an international level.\textsuperscript{219} United States foreign policy should be directed toward these ends.

V. CONCLUSION

The U.N. World Conference of the International Women’s Year was held in Mexico City from June 19 to July 2, 1975. The conference could have furthered women’s rights to a significant degree, but it was hampered by the lack of a cohesive leadership strategy on the part of the major countries, especially the United States. The United States should have exercised strong leadership backed by a foreign policy committed to women’s rights. At the time of the conference, the United States had the U.N. Charter and the UNESCO and ILO Constitutions as precedent. As a result of ratifying the Political Rights Convention, it has even more precedent now.

The United States is internationally bound to enforce the


\textsuperscript{218} 49 \textit{Dep’t State Bull.} No. 1261 at 322 (1963).

women's rights provisions within the U.N. Charter, the UNESCO Constitution, and the Political Rights Convention. By implication, the United States is bound to the International Bill of Human Rights and subsequent women's rights conventions and instruments. The United States is specifically bound to involuntary servitude treaties and OAS conventions dealing with human rights. Consequently, the United States has more than ample precedent and authority to pursue an active leadership role in protecting women's rights, and priorities in United States foreign policy should be redirected toward that end.

The failure of the United States to ratify women's rights and human rights conventions has subjected the United States to claims of hypocrisy in its foreign policy. The international standing of the United States has been hurt, especially in the U.N. If the Carter administration is serious about human rights, it needs to help write the Draft Convention on the Elimination of All Forms of Discrimination Against Women so that it has a good chance of being ratified by the United States Senate. Because such a treaty would become supreme law within the United States, its ratification would enhance the rights of women to the extent that domestic law does not already do so.