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DRAFT CONVENTION ON THE ELIMINATION OF DISCRIMINATION
AGAINST WOMEN

WORKING PAPER PREPARED BY THE SECRETARY-GENERAL

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V. TEXT OF THE DRAFT CONVENTION AS OF THE END
OF THE THIRTY-THIRD SESSION OF THE GENERAL ASSEMBLY*

Title

"Draft Convention on the Elimination of Discrimination against Women"

Alternative title

"Draft Convention on the Elimination of All Forms of Discrimination against Women" ^{1/}

Preamble

"The States Parties to the present Convention"

Paragraph 1

Noting that the Charter of the United Nations reaffirmed faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women".

Paragraph 2

Noting that the Universal Declaration of Human Rights affirmed the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind including distinction based on sex".

Paragraph 3

Noting that under the International Covenants on Human Rights States Parties have the obligation to secure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights".

Paragraph 4

"Considering the international conventions concluded under the auspices of the United Nations and specialized agencies promoting equality of rights of women and men".

New paragraph

"Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies to promote equality of rights of women and men".

* The following texts have been adopted by the Working Group at the thirty-second and thirty-third sessions of the General Assembly unless alternative texts or amendments appear.

^{1/} Proposed by the Philippines, Romania and Rwanda; Source: A/C.3/32/L.59, paras. 8-14.

Former paragraph 5

"Concerned, however, that despite those various instruments, extensive discrimination against women continues to exist".

Former paragraph 6

"Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family, and makes more difficult the full development of potentialities of women in the service of their countries and humanity".

New paragraph^{1/}

"Concerned, that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs".

(Former paragraph 7 was deleted.)

Former paragraph 8

New compromise text

(a) "Convinced that the establishment of a new, just and equitable international economic order will contribute significantly towards the promotion of equality between men and women,

(b) Emphasizing that the eradication of apartheid, of all forms of racism, racial discrimination, colonialism and foreign domination, is essential to the full enjoyment of the rights of men and women,

(c) Affirming that the strengthening of international peace and security, relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries, and the right to self-determination will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women".^{2/}

The above texts were adopted with the understanding that they will be forwarded to the Third Committee accompanied by the amendments which follow.

^{1/} The location of this paragraph remains to be decided. However the sponsors (Bangladesh, Indonesia, Pakistan, Singapore and Somalia) and other delegations suggested that it should precede former paragraph 8. Source: A/C.3/32/MG.1/CRP.2 and A/C.3/32/L.59, para. 27.

^{2/} Source: A/C.3/32/L.59, paras. 44-50.

Amendments to compromised texts^{1/}

(a)

Syrian Arab Republic

Add the word "the" before the words "new international economic order".

Yugoslavia

Replace the word "a" by the word "the" before the words "new international economic order". Delete the words "just and equitable" before the words "international economic order". After these words add the words "based on equity and justice".

(b)

Philippines, Romania and Rwanda

Add the words "neocolonialism" after the word "colonialism".

Syrian Arab Republic

After the words "foreign domination" add the words "foreign occupation".

(c)

Morocco

After the words "the right to self-determination" add the words "as well as respect of national sovereignty and territorial integrity of States".

Philippines, Romania and Rwanda

After the words "general and complete disarmament" add the words "and in particular nuclear disarmament".

Syrian Arab Republic

Retain the words "about fundamental rights" contained in the previous compromise text.

Former paragraph 9^{2/}

"Convinced that the full and complete development of a country, the welfare of the world, and the cause of peace requires the maximum participation of women on equal terms with men in all fields".

Former paragraph 10^{3/}

"Bearing in mind the great contribution of women to the development of society, so far not fully recognized, the social significance of maternity and of the role of both parents in the family and in the rearing of children".

(The above text was adopted with the understanding that it will be presented to the Third Committee with an amendment by Mexico.)

^{1/} Source: A/C.3/32/L.59, annex I.

^{2/} Source: A/C.3/32/L.59, para. 53.

^{3/} A/C.3/32/L.59, annex I.

Amendment by Mexico

Add at the end of the paragraph the following: "...and aware that the role of women in procreation should not be a basis for discrimination but that instead, the rearing of children requires a sharing of responsibility between men and women and society as a whole".

Former paragraph 11 1/

"Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations".

New paragraph 2/

The Working Group decided to present to the Third Committee the following two alternative versions of this paragraph.

Byelorussian SSR

"Aware that the position of women cannot be changed without ensuring equality between men and women in society and in the family".

Sweden

"Aware that the position of women cannot be changed without also a change in the traditional role of men in society and in the family".

Have agreed on the following:

I. General provisions

Article 1 3/

"For the purpose of the present Convention the term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect of or the purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights, and fundamental freedoms in the political, economic, social, cultural or any other field of public life".

Article 2

Introductory sentence

The Working Group decided to transmit two versions of the introductory sentence to the Third Committee, as follows:

Alternative versions

Introductory sentence as it appears in the Draft Convention:

1/ A/C.3/33/WG.1/CRP.1/Add.1, p.5.

2/ Source: A/C.3/32/L.59, para. 57.

3/ Source: A/34/60, annex, p. 44.

"The States Parties condemn discrimination against women and undertake to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women and, to this end;" ^{1/}

Byelorussian SSR

"The States Parties condemn discrimination against women in all its forms denying or limiting their equality of rights with men and undertake to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and to this end;" ^{2/}

Paragraph (a)

"Each State Party undertakes to embody the principle of the equality of men and women in its national Constitution or other appropriate legislation if not yet incorporated therein, and to ensure, through law and other appropriate means, the practical realization of this principle".

New version of paragraph (b) ^{3/}

"Each State Party undertakes to adopt appropriate legislative and other measures including sanctions where appropriate, prohibiting all discrimination against women".

New version of paragraph (c)

"Each State Party undertakes to establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination".

New version of paragraph (d) ^{3/}

"Each State Party undertakes not to engage in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation".

New version of paragraph (e) ^{3/}

"Each State Party shall take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise".

Paragraph (f)

The Working Group decided to submit to the Third Committee the paragraph as it appears in the Draft Convention together with amendments to it.

Paragraph (f) as it appears in the Draft Convention

"Each State Party shall take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs, and practices which are discriminatory to women". ^{4/}

^{1/} Source: A/C.3/32/L.59, para. 60.

^{2/} Source: A/C.3/32/L.59, paras. 82-88.

^{3/} Source: A/C.3/32/L.59, annex or A/C.3/33/WG.1/CRP.1/Add.1, pp. 6-7.

^{4/} Source: A/C.3/33/WG.1/CRP.1/Add.1, p. 15.

Amendment

Kenya

Proposed to delete the paragraph on the grounds that it is a repetition of paragraph (b) of the same article. 1/

United States of America

Substitute paragraph (f) by the following: "Each State Party shall take all appropriate measures, including legislation, with a view to achieving the elimination of discrimination against women, whether based upon law, regulation, custom or practice". 2/

Mali

Orally proposed to reword the paragraph as follows: "Each State Party shall take within the framework of its policies for economic, social and cultural advancement, all appropriate measures including legislation, to modify or abolish existing laws and regulations which are discriminatory to women". 2/

Morocco

Orally sub-amended this amendment by adding the word "customs" after the words "laws and regulations". 4/

Paragraph (g)

"Each State Party shall endeavour to promote national organizations and movements whose purpose is to advance the status of women and eliminate discrimination against them". 2/

Article 3 6/

"The States Parties shall undertake in all fields, in particular the political, social, economic and cultural, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men".

1/ Source: A/C.3/32/L.59/annex I.

2/ Source: A/C.3/32/WG.1/CRP.2; A/C.3/32/L.59, para. 85.

3/ Source: A/C.3/32/L.59, para. 86.

4/ Source: A/C.3/32/L.59, para. 87.

5/ Source: A/C.3/33/EG.1/CRP.1/Add.1, p. 7.

6/ Source: A/C.3/33/WG.1/CRP.1/Add.1, p. 7.

Article 4 ^{1/}

New version of paragraph 1

"Adoption by States of temporary special measures aimed at accelerating *de facto* equality of women with men shall not be considered discrimination as defined in this Convention, but shall in no way entail, as a consequence, the maintenance of unequal or separate standards and shall be discontinued when the objectives of equality of opportunity and treatment have been achieved".

Paragraph 2

"Adoption by States of special measures, including those measures contained in the present Convention, aimed at protecting maternity, shall not be considered discriminatory".

Article 5 ^{2/}

The States Parties shall take all appropriate measures to:

Paragraph 1

"1. To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women".

New version of paragraph 2

"2. To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of both men and women in the upbringing and development of their children".

Article 6

The Working Group adopted the article as it appears in the Draft Convention with the exception of Argentina. The Working Group accepted the Argentinian suggestion that her amendment be submitted to the Third Committee together with the text of Article 6.

Text as it appears in the draft Convention:

"Each State Party agrees to repeal all provisions of national penal codes which constitute discrimination against women". ^{2/}

Argentine amendment

Replace "national penal codes" by "all national legislation".

New version of article 7 ^{4/}

"The States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women."

^{1/} Source: A/C.3/33/MG.1/CRP.1/Add.1, p. 7.

^{2/} *Ibid.*, p. 8.

^{3/} *Ibid.*

^{4/} Source: A/C.3/32/L.59, para. 107.

II. Political rights

Article 8 ^{1/}

Introductory phrase

"Each State Party shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and in particular shall ensure on equal terms with men, the right:"

Paragraph (a)

"To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies".

Paragraph (b)

"To participate in the formulation of government policy and the administration thereof and to hold public office and perform all public functions at all levels of government".

(Paragraph (c) was deleted.)

Former paragraph (d)

"To participate in non-governmental organizations and associations concerned with the public and political life of the country".

New article ^{2/}

"Each State Party shall undertake all appropriate measures to ensure to women on equal terms with men and without any discrimination the opportunity to represent their Governments at the international level and to participate in the work of international organizations".

Former article 9

Paragraph 1

The Working Group decided to present to the Third Committee two alternative versions.

(1) Amendment of Kenya

Replace paragraph 1 by the following:

"The States Parties shall grant spouses equal rights to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien, dissolution of such marriage nor change of nationality of either spouse shall automatically change the other spouse's nationality or render him or her stateless." ^{3/}

(2) Subamendment of the USSR to the amendment of Kenya

"The States Parties shall grant women equal rights to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband". ^{4/}

(Paragraphs 2 and 3 of former article 9 were deleted.)

^{1/} Source: A/C.3/33/WG.1/CRP.1/Add.1, p. 9.

^{2/} Ibid.

^{3/} Sources: A/C.3/32/L.59, para. 140 and A/C.3/32/WG.1/CRP/8/Add.2.

^{4/} Source: A/C.3/32/WG.1/CRP/9.

Former paragraph 4

The Working Group decided to present to the Third Committee the original text of paragraph 4 together with amendments submitted to it.

Original text

The States Parties agree to grant women equal rights with men to transmit their nationality to their children. ^{1/}

Amendments ^{2/}

The Netherlands

Replace the words "to transmit their nationality to their children" with the words "with respect to the nationality of their children".

Argentina

After the words "The States Parties" add the words "where it applies".

III. Economic and social rights

Article 10 ^{3/}

Each State Party shall take all appropriate measures to eliminate discrimination against women and to ensure to women equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, access to studies and achievement of a diploma in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-schooling, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging co-education and other types of education which will help to achieve this aim and in particular by the revision of textbooks and school programmes and the adaptation of teaching methods;

(d) The same opportunities to benefit from scholarships and other study grants;

(e) The same opportunity for access to programmes of continuing education, including adult and functional literacy programmes, particularly aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(f) The reduction of the female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

(g) The same opportunities to participate actively in sports and physical education;

(h) Access to specific educational information to help ensure the health and well-being of families, including information and advice on family planning.

^{1/} Source: A/C.3/35/WG.1/CRP.1/Add.1, p. 18.

^{2/} Source: A/C.3/35/WG.1/CRP.1/Add.1, p. 18 or A/C.3/32/L.59, para. 162.

^{3/} Source: A/34/60, annex, pp. 44-45.

Article 11 1/

1. Each State Party shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to work as an inalienable right of all human beings;
- (b) The right to the same employment opportunities, including the application of the same criteria used for selection in matters of employment;
- (c) The right to free choice of profession and employment, to promotion and job security and all benefits and conditions of service, to receive vocational training and retraining, including apprenticeship, advanced vocational training and recurrent training;
- (d) The right to equal remuneration, including benefits and equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- (e) The right to social security, particularly in the case of retirement, unemployment, sickness, invalidism and old age and other incapacity to work, as well as the right to paid leave;
- (f) The right to protection of health and to safety in the working environment, including safeguarding the function of reproduction.

2. In order to prevent discrimination against women on account of marriage or maternity and to ensure their effective right to work, the States Parties shall undertake appropriate measures:

- (a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or maternity leave and discrimination in dismissals on the basis of marital status;
- (b) To introduce paid leave or leave with comparable social benefits for maternity without loss of the job held, seniority or social allowances;
- (c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;
- (d) To extend special protection to women during pregnancy for types of work proved to be harmful to them.

3. Protective legislation should be reviewed periodically in the light of scientific and technological knowledge and should be revised, repealed or extended as necessary.

Article 12 2/

1. Each State Party shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

1/ Source: A/32/60, annex, pp. 45-46.

2/ Source: A/34/60, annex, p. 46.

2. Notwithstanding the provisions of paragraph 1 above, each State Party shall ensure to women appropriate services in connexion with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13 ^{1/}

Each State Party shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;
- (c) The right to participate in recreational activities, sports and in all aspects of cultural life.

Article 14 ^{2/}

1. Each State Party shall take into account the particular problems faced by rural women and the significant roles they play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

2. Each State Party shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, participation in and benefits from rural development and, in particular, the right:

- (a) To participate in the formulation and implementation of development planning at all levels ²
- (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
- (c) To benefit directly from social security programmes;
- (d) To obtain all types of training and education, formal and non-formal, including functional literacy, as well as the benefit of all community and extension services, inter alia, to increase their technical proficiency;
- (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;
- (f) To participate in all community activities;
- (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

^{1/} Source: A/34/60, annex, p. 46.

^{2/} Ibid., pp. 46-47 unless otherwise indicated.

^{3/} Source: A/34/60/Corr.2.

IV. Civil and family rights

Article 15 1/

1. The States Parties shall accord to women equality with men before the law.
2. The States Parties shall accord to women a civil and legal capacity identical to that of men and the same opportunities to exercise that capacity. They shall in particular give them equal rights to conclude contracts and administer property and treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contract and all other private instruments of any kind with legal effect directed at restricting the legal capacity of women shall be deemed null and void.
4. The States Parties shall accord to men and women the same rights with regard to the law on the movement of persons and the freedom to choose their residence and domicile.

Article 16 2/

1. Each State Party shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
 - (a) The same right to enter into marriage;
 - (b) The same right to free choice of a spouse and to enter into marriage only with their free and full consent;
 - (c) The same rights and responsibilities during marriage and at its dissolution;
 - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
 - (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise this right;
 - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar social forms when these concepts exist in national legislation. In all cases the interest of the children shall be paramount;
 - (g) The same personal rights of husband and wife, including the right to choose a family name, a profession and an occupation;
 - (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

1/ Source: A/54/60, annex, p. 47.

2/ Source: A/54/60, annex, p. 48.

2. The betrothal and the marriage of a child shall have no legal effect and all necessary action including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.
