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DRAFT CONVENTION ON THE ELIMINATION OF DISCRIMINATION
AGAINST WOMEN

DRAFT REPORT OF THE WORKING GROUP OF THE WHOLE ON THE DRAFTING OF THE
CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Working paper prepared by the Secretariat

Addendum

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TITLE

The Working Group considered the title of the draft Convention together with the amendment of Rwanda, Romania and the Philippines (A/C.3/34/WG.1/CRP.1/Add.1) at its 10th meeting.

An exchange of views took place as to which formulation was the most comprehensive.

At its 10th meeting on 20 November 1979 the Working Group adopted the joint Rwanda, Romania and Philippine text. The text reads as follows:

"Draft Convention on the Elimination of all Forms of Discrimination against Women".

New preambular paragraph 8

The Working Group considered the question of the placement of new preambular paragraph 8, which was adopted by the Working Group, at the thirty-second session of the General Assembly (A/C.3/34/WG.1/CRP.1/Add.1), at its 10th meeting.

At its 10th meeting, on 20 November 1979, the Working Group agreed to the proposal by the co-sponsors of the new paragraph - Bangladesh, Indonesia, Pakistan, Singapore and Somalia - to have it precede former paragraph 8. Consequently, the Working Group decided that former preambular paragraph 8 should become preambular paragraph 9.

(Former preambular paragraph 8 (now preambular paragraph 9))

The Working Group considered the new compromise text for former preambular paragraph 8 of the draft convention together with amendments thereto (A/C.3/34/WG.1/CRP.1/Add.1) at its 10th and 11th meetings.

The United Kingdom expressed its belief that the compromise text had not been adopted at the thirty-second session and that its delegation had made strong reservations to them. He requested the deletion of the compromise text.

The Byelorussian SSR explained that the United Kingdom had been among the delegations who had worked at a compromise text during that session precisely because it had serious reservations to the original text.

It was decided to consider the compromise text, as the Working Group had adopted the rule not to reopen adopted texts.

The Working Group considered subparagraph (a) of the compromise text together with amendments thereto (A/C.3/34/WG.1/CRP.1/Add.1), as follows:

/...

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'."

The Syrian Arab Republic accepted the amendment of Yugoslavia.

At its 10th meeting on 20 November 1979, the Working Group adopted the Yugoslav amendment.

At the same meeting, the Working Group adopted subparagraph 8 (a) of the compromise text as amended. The text reads as follows:

"8 (a) Convinced that the establishment of the new, international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,"

The Working Group considered subparagraph 8 (b) of the compromise text together with the amendments to it (A/C.3/34/WG.1/CRP.1/Add.1) as follows:

Philippines, Romania and Rwanda

"Add the word 'neo-colonialism' after the word 'colonialism'."

Syrian Arab Republic

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

At its 10th meeting, on 20 November 1979, the Working Group decided to incorporate the above amendments in the compromise text, in brackets, as there was no consensus for their adoption, and to transmit it to the Third Committee. The text reads as follows:

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

The Working Group considered subparagraph 8 (c) of the compromise text together with amendment thereto (A/C.3/34/WG.1/CRP.1/Add.1) as follows:

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."

The Syrian Arab Republic withdrew its amendment.

At the 11th meeting, on 22 November 1979, since no consensus could be reached regarding the above amendments, the Working Group decided to incorporate the amendments in brackets into the compromise text and transmit it to the Third Committee. The text reads as follows:

"8 (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 /and in particular nuclear 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 /as well as respect of national sovereignty and territorial integrity/ contribute to the attainment of full equality between men and women,".

Former preambular paragraph 10 (now preambular paragraph 11)

The Working Group considered the amendments submitted by the Byelorussian SSR and Sweden to add a new sentence to the compromise text as adopted by the Working Group during the thirty-second session of the General Assembly (A/C.3/34/WG.1/CRP.1/Add.1) at its 11th meeting.

At the request of Mexico, the Working Group agreed to incorporate in the compromise text its own amendment, submitted during the thirty-second session of the General Assembly, which had been inadvertently omitted.

Sweden, in consultation with the Byelorussian SSR, proposed a text which merged the two amendments.

At its 11th meeting on 22 November 1979, the Working Group adopted the merger text proposed by Sweden. The text reads as follows:

"Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,".

Article 2 (introductory sentence and subparagraph (f))

The Working Group considered the introductory sentence of article 2 of the draft Convention, together with the alternative versions proposed by the Byelorussian SSR (A/C.3/34/WG.1/CRP.1/Add.1), at its 11th meeting.

The Byelorussian SSR revised its version to delete the words "denying or limiting their equality of rights with men", after the words "in all its forms".

At its 11th meeting, on 22 November 1979, the Working Group adopted the revised version of the Byelorussian SSR. The text reads as follows:

"The States Parties condemn discrimination against women in all its forms and undertake to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end,".

The Working Group considered subparagraph (f) of article 2 of the draft Convention together with the amendments thereto of Kenya, the United States and Mali and the Moroccan subamendment to the Malian amendment (A/C.3/34/WG.1/CRP.1/Add.1) at its 11th meeting.

Objections were raised regarding the Malian amendment, which in the view of some delegations, could limit the obligations of the States parties under the Convention. Although there was no objection against the United States text, a preference was expressed for the original text of the draft Convention.

At its 11th meeting, on 22 November 1979, the Working Group adopted the original text of subparagraph (f) of article 2. The text reads as follows:

"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".

Article 6 (now deleted)

The Working Group considered article 6 of the draft Convention together with the Argentinian amendment (A/C.3/34/WG.1/CRP.1/Add.1), at its 11th meeting.

During the discussion, different views were expressed on the advisability of an article in the Convention which would strictly deal with the repeal of penal codes or provisions which constitute discrimination against women. While some delegations felt that this important issue required a special article, the majority of the Working Group was of the view that it should be incorporated in article 2 of the draft, which dealt inter alia in subparagraph (f) with the obligation of States parties to repeal discriminatory legislation. After an exchange of views as to where former article 6 should be placed within article 2, most delegations favoured its incorporation following subparagraph (f) as an additional subparagraph (g).

Regarding the text of this additional subparagraph (g), while some delegations favoured the original text of the draft, other delegations were of the opinion that it would be preferable to refer to penal provisions rather than penal codes, as there were instances where codes as such did not exist. Also, some difficulties were indicated regarding the use of the word "repeal", so a few delegations favouring the word "reform" in its stead. A number of oral proposals were made regarding the exact wording of the text.

Ireland orally proposed the following version:

"Each State Party agrees to repeal all national penal provisions which constitute discrimination against women".

At its 11th meeting, on 22 November 1979, the Working Group adopted the version above, proposed by Ireland as an additional subparagraph 2 (g) and deleted article 6 of the draft.

Article 9, paragraph 1

The Working Group considered the two alternative versions for article 9, paragraph 1 of the draft Convention contained in the amendment of Kenya and the subamendment of the USSR (A/C.3/34/WG.1/CRP.1/Add.1) at its 11th meeting.

During the discussion views were divided regarding the two versions proposed. Delegations favouring the USSR version - which referred to the rights of women rather than to the equal rights of men and women - were of the view that, since there existed in the world various instances of national legislation which granted women privileged rights for acquisition of nationality by marriage, it was necessary that the article should not deprive them of such rights which were still required. In that connexion, fear was expressed that the relevant provisions of the United Nations Convention on Nationality of Married Women - which inter alia granted such privileged rights to women - might be placed in jeopardy by the adoption of an article embodying the principle of full equality between the spouses. Those delegations favouring the Kenyan version - which placed both spouses on exactly the same footing - opposed the USSR version, on the grounds that it was not consonant with the treatment, throughout the text of the draft, of recognizing the full equality of men and women. In their opinion, the need for privileged rights, if required, was taken care of under article 4 of the draft which opened the door to positive discrimination in favour of women, as an interim measure. The representative of the Legal Counsel, in response to a query, provided some preliminary clarifications.

Mexico orally proposed to amend the USSR version by including between the words "equal rights" and "to acquire" the words "with men". In a spirit of compromise, no objection was raised to this proposal.

At its 11th meeting, on 22 November 1979, the Working Group adopted the amendment of Mexico to the USSR version.

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At the same meeting, the Working Group adopted the USSR version as amended. The text reads as follows:

"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".

Article 9, paragraph 4

The Working Group considered paragraph 4 of former article 9 of the draft Convention, together with amendments thereto by the Netherlands and Argentina (A/C.3/34/WG.1/CRP.1/Add.1) at its 11th meeting.

During the discussion, views were divided as between the original text and that text as modified by the Netherlands amendment.

Argentina explained that the purpose of its amendment was to provide for a text which would cover all legal systems, as the original text applied only to countries covered by jus sanguinis and did not apply to countries governed by jus soli.

The representative of the Legal Counsel, in response to a request, provided a clarification as regards the systems of jus soli and jus sanguinis and suggested the inclusion of the words "where necessary" in the original text, after the words "States Parties", in order to meet the Argentine concern.

After an exchange of views, a consensus was reached as to the need to reflect in the report of the Working Group a reference to the existence of jus soli. Agreement on the following text, proposed by Ireland, was reached:

"The Working Group noted that since article 9 (2) speaks of equal rights, it is clear that this article does not oblige countries which do not follow jus sanguinis and which therefore do not transmit nationality through the father, to do so through the mother".

Argentina withdrew its amendment.

At its 11th meeting, on 22 November 1979, the Working Group adopted the Netherlands amendment.

At the same meeting, the Working Group adopted paragraph 4 of former article 9, as amended. The text reads as follows:

"The States Parties agree to grant women equal rights with men with respect to the nationality of their children."