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COMMISSION ON THE STATUS OF WOMEN

Twenty-sixth session

SUMMARY RECORD (PARTIAL) \*/ OF THE 632nd MEETING \*\*/

held at the Palais des Nations, Geneva,  
on Tuesday, 14 September 1976, at 10.20 a.m.

Chairman:

Mrs. BOKOR

(Hungary)

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International instruments relating to the status of women:

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(agenda item 3)

\*/ No summary record was prepared for the beginning of the meeting.

\*\*/ No summary records were made of the 630th and 631st meetings.

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(9 p.)

The discussion covered in the summary record began at 10.50 a.m.

INTERNATIONAL INSTRUMENTS RELATING TO THE STATUS OF WOMEN (agenda item 3):

(a) DRAFT CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN  
(E/CN.6/574, 591 and Add.1; E/CN.6/NGO/259)

1. Mrs. BRUCE (Assistant Director, Centre for Social Development and Humanitarian Affairs), introducing agenda item 3, drew the Commission's attention to paragraphs 1 to 5 of document E/CN.6/591, which described the background of the question. The Commission had not voted on any of the articles of the draft convention it had drawn up at its twenty-fifth session (E/CN.6/591, annex III), and a number of articles had alternative texts. The comments communicated by Governments, specialized agencies and non-governmental agencies to the Secretary-General before 21 May 1976 had been taken into account in the preparation of the basic working paper (E/CN.6/591). Comments had been received from 41 countries, namely, eight Asian countries, seven African countries, six Latin American or Caribbean countries, fourteen western countries and six East European countries. Four of the communications received contained new draft conventions. Three of those drafts, from Benin, Indonesia and the All-African Women's Conference, respectively were reproduced in annex II to document E/CN.6/591. The fourth, sent by Belgium and received by the Secretariat after the deadline, had been included in document E/CN.6/591 Add.1.

2. With regard to the procedure to be followed in the consideration of the draft convention, a drafting group would probably be necessary to overcome certain difficulties reflecting differences of views on form rather than substance, and she explained that if a group was set up, it would have interpretation services only if the Commission's meetings lasted less than three hours. Furthermore, where there were large numbers of draft amendments, the usual practice was to regard them as such only if a delegation submitted them in that manner. Lastly, it might be well to decide, in respect of each article, whether possible amendments were to be made to the original text or to one of the alternative texts.

3. Mrs. SALYO (Indonesia) asked whether delegations could make general statements or whether the Commission would immediately embark upon its consideration of the articles of the draft convention.

4. The CHAIRMAN said that any delegation could make a statement of a general nature; however, time was short and it would be well if the Commission began its consideration of the articles of the draft convention without delay.

5. Mrs. SALYO (Indonesia) thought that the proposed international instrument would be very useful in doing away more quickly with the discrimination to which women were subject in various countries Members of the United Nations. She recalled that Indonesia had submitted a number of observations and a draft convention reproduced in annex II to document E/CN.6/591. She proposed that the Commission should decide on the name of the draft convention.

6. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) recalled that the draft convention under consideration was the result of the merger of two texts submitted by the Philippines and the USSR in January 1974 to the Working Group set up by the Commission. That text incorporated the amendments by its sponsors; the others appeared in the alternative texts of some articles.

7. At its twenty-fifth session, the Commission had accepted the Working Group's draft and had unanimously decided to call it "draft convention on the elimination of discrimination against women", so that it would have the same title as that of the Declaration on which it was based. There had also been agreement on the preamble. Furthermore, the Commission had decided to recommend that the Secretary-General should transmit the draft to Member States, specialized agencies and non-governmental organizations for their comments, because some delegations had indicated that they were not prepared to examine it article by article. The Commission should examine the text at its twenty-sixth session, in the light of the comments received.

8. Her Government regarded the draft (without the alternative texts) as a progressive text which, in many respects, went beyond the existing ILO conventions. However, if the proposed convention was to be universal in nature, it must take account of the different levels of development of Member States. In any event, the provisions of certain articles would no doubt be at variance with the legislation or domestic practice of some States, but that was only natural, since the convention should constitute an appeal for progress.

9. The USSR was convinced that delegations would demonstrate a spirit of co-operation and that, in carrying out the task entrusted to it by the General Assembly in resolution 3521 (XXX), the Commission would complete the elaboration of the draft convention on the elimination of discrimination against women at its current session.

10. Mrs. TAKAHASHI (International Labour Organisation) said that she wished to clarify the ILO's position on the draft convention. In its comments, the ILO had expressed the desire that any new instrument should be brief and to the point, that it should refer to, but not repeat, the standards adopted by the United Nations, UNESCO and the ILO, and that it should take into account the recommendations made by the Administrative Committee on Co-ordination at its fifty-seventh session. She therefore questioned the desirability of including matters such as maternity protection in a comprehensive convention on discrimination against women. Provisions on that subject had already been incorporated in existing ILO conventions and recommendations, and could be amended. It might be sufficient for the proposed convention to ensure that such protection did not imply discrimination.

11. Since the twenty-fifth session of the Commission, the ILO had adopted two important texts, namely, a Declaration on Equality of Opportunity and Treatment for Women Workers, and a resolution concerning a Plan of Action with a view to promoting their equality of opportunity and treatment. Those texts were based on the principles dealing with social and economic rights set out in articles 10 to 14

of the Commission's draft convention and, instead of reproducing the provisions of other ILO conventions, reflected only the essential principles, thus avoiding the danger of overlapping and conflict which the ILO would also like to see avoided in the draft under consideration. The two ILO texts she had mentioned went further than the draft under study; they emphasized the positive aspects of equality of opportunity and treatment, while the draft convention sought to eliminate all forms of discrimination.

12. A study was currently being made of the possibility of revising some ILO conventions, in order to take into account the recommendations made in the above-mentioned texts. The ILO was aware that some provisions of its conventions were incomplete or out of date, but considered that, within the United Nations system it was constitutionally and technically competent to revise them.

13. The CHAIRMAN observed that article 17 of the draft convention specified that its provisions did not affect existing conventions adopted under the auspices of the United Nations or its specialized agencies and having as their object the regulation of various aspects of the status of women.

14. Mrs. BRUCE (Assistant Director, Centre for Social Development and Humanitarian Affairs) pointed out that the texts which the ILO representative had mentioned appeared in the annex to document E/CN.6/603. It might be useful to refer to them during the consideration of articles 10 and 11 of the draft convention.

15. The CHAIRMAN invited the Commission to consider the title of the draft convention.

16. Mrs. COCKCROFT (United Kingdom), Mrs. SALYO (Indonesia), Mrs. FARIDI (Pakistan), Mrs. GUEYE (Senegal), Mrs. DEVAUD (France) and Mrs. TALLAWY (Egypt) thought that "Convention on the elimination of discrimination against women" was better than "Convention on the Elimination of All Forms of Discrimination against Women".

17. The CHAIRMAN noted that the majority of the members of the Commission seemed to be in favour of a title identical to that of the Declaration. If there was no objection, she would take it that the Commission decided by consensus to call the draft under consideration "Draft convention on the elimination of discrimination against women".

18. The title of the draft convention was adopted.

19. The CHAIRMAN suggested that the Commission should begin with article 1 and take up the preamble only at a later stage, since it reflected the body of the text.

20. It was so decided.

Article 1

21. The CHAIRMAN, speaking as the representative of Hungary, said she saw no great difference between the basic text and the alternative one, except possibly the reference made in the alternative text to the idea of "preference", a concept which she for her part considered desirable if it was a question of maternity protection.
22. Mrs. FARIDI (Pakistan) supported the original text of article 1.
23. Mrs. SANDLUND (Sweden), also speaking on behalf of the Danish delegation and the Observers for Norway and Finland, said she preferred the alternative text. The purpose of the convention should be the elimination of discrimination based on sex in general, rather than the elimination of discrimination against women. Indeed, the fact of assigning to each sex a very specific role in society, to which individuals should conform, limited the possibilities for the development of the personality. In that regard, she referred to the statement in operative paragraph 5 of the Declaration of Mexico that "Women and men have equal rights and responsibilities in the family and in society", and added that women would be unable to play their role in the political and economic fields if men failed to play an increasing role in the education of children and in family life. The Nordic delegations would prefer a draft convention which sought to abolish discrimination based on sex in general.
24. Mrs. ATHANASAKOS (United States of America) shared the view of the Scandinavian delegations. Her delegation also thought that the draft convention should seek to ensure equality between men and women and not merely to eliminate discrimination against women.
25. Mrs. CADIEUX (Canada) said that she preferred the wording of the alternative text, but proposed the addition, after the word "preference", in the second line, of the words "based on sex".
26. Mrs. SALYO (Indonesia) drew attention to the article 1 proposed by Indonesia in annex II to document E/CN.6/591, and said that it referred not to discrimination against women but rather to "discrimination" as that term was understood for the purposes of the present convention.
27. Mrs. GONZALEZ de CUADROS (Colombia) said she was in favour of the alternative text which was unexceptionable because in any event, with regard to motherhood for example, women would never be on an equal footing with men.
28. Miss TYABJI (India), supported by Miss BRASDEFER (Mexico), wondered whether the deletion of the words "against women" in the basic text would meet the objections of the Nordic countries.
29. Mrs. LAMINA (Madagascar) said she preferred the wording of the original text and suggested the addition of the words "or impairing" after the word "nullifying" in the third line.
30. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics), referring to the comments of the representative of Sweden, pointed out that the Commission's desire was to defend women. However, it was essential to bear in mind that women performed a twofold function, of which procreation was the more important since it perpetuated the human

species. Women should therefore be in the best possible position to perform both their functions as citizens and as mothers. It was therefore natural that women should enjoy a privileged position when they were pregnant or when their children were very young. The use of the word "preference" in the alternative text was therefore unsatisfactory, since it was at variance with the desired objective. In those circumstances, her delegation was unable to support the alternative text.

31. Mrs. COCKCROFT (United Kingdom) said she was in favour of the original text, but was prepared to support the compromise solution proposed by the Indian representative.

32. Mrs. SANDLUND (Sweden) suggested that the alternative text should be amended by the replacement of the words "exercise by women, on an equal footing with men" by "exercise by women and men, on an equal footing". She also suggested that the following sentence should be added at the end of the text: "The establishment of special temporary conditions for women or men aimed at establishing de facto equality between the sexes shall not be considered discriminatory". She did not think it would be enough to delete the words "against women" in the original text. In reply to the representative of the Soviet Union, she said it would be illogical to expect women to play a dual role, and again referred to paragraph 5 of the Declaration of Mexico. The equality of men and women in the family should be guaranteed, and men should be called upon to take a more active part in family life.

33. Mrs. GUEYE (Senegal) pointed out that discrimination based on sex was directed against women rather than men. If the question at issue was simply that of discrimination in general, the Commission should mention discrimination based on race or the discrimination practised against the countries of the third world. In the circumstances, she would prefer to retain the original text. However, she endorsed the proposal made by the representative of Madagascar to add the words "or impairing" after the word "nullifying" in the original text.

34. The CHAIRMAN suggested that delegations which supported a particular text or had made proposals should meet in order to arrive at a compromise solution.

35. Mrs. HUSSEIN (Egypt) thought that the present discussion was basically concerned with drafting problems, except for the objections raised to the use of the word "preference" in the alternative text. In her opinion, it would be better to delete it as being too controversial. If the original text was to be adopted, she proposed that the words "by women, on an equal footing with men" should be added after "or exercise".

36. Miss TYABJI (India) was not entirely in agreement with the views expressed by the representatives of the Soviet Union and the Nordic countries. The situation in those countries, especially with regard to employment, was not the same as in the developing countries, where the scarcity of jobs excluded women from the more responsible positions. The Commission should therefore refrain from going into too much detail and should leave Governments sufficient leeway by not specifying rights that they would be unable to guarantee.

37. Mrs. FARIDI (Pakistan) failed to see why the members of the Commission were reluctant to retain the words "against women" in the original text, since they were part of the draft convention's title they had just adopted.

38. Mrs. SALYO (Indonesia) thought that the retention of the words "against women" and "for the purposes of this Convention" was simply a drafting matter. There was, however, a substantive problem, insofar as the original text was more concise in its reference to discriminatory measures based on sex. If the Commission decided to retain the words "on the basis of sex" in the original text, it might be superfluous to maintain the idea of "preference" and in that case the two texts could be consolidated into a single article.

39. Mrs. COCKCROFT (United Kingdom) suggested the following text: "For the purpose of this Convention, the term 'discrimination against women' shall mean any discrimination, exclusion, restriction or preference made on the basis of sex which has the effect of or the purpose of nullifying the recognition, enjoyment, or exercise by women, on a basis of equality with men, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

40. Mrs. GONZALEZ de CUADROS (Colombia) thought that the United Kingdom proposal was somewhat contradictory in that it referred both to discrimination against women and to the idea of preference. She preferred the alternative text, provided that the words "on the basis of sex" were inserted in the second line, as proposed by the Canadian delegation.

41. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics), supported by Mrs. HOERZ (German Democratic Republic) and Mrs. ROMANOVICH (Byelorussian Soviet Socialist Republic), was grateful to the United Kingdom delegation for its efforts to find a compromise solution, but thought that it failed to take sufficient account of the situation in different countries. If the Commission wished to protect women as mothers, it should do away with the idea of "preference". A constructive approach implied the need to remove any possibility of misunderstanding so that the Convention would be generally acceptable.

42. Mrs. ATHANASAKOS (United States of America) found the text proposed by the United Kingdom delegation acceptable, and thought that the word "preference" did not preclude the possibility of providing special care for mothers, for that was not discrimination. On the contrary, it was precisely the omission of the idea of preference that might open the door to discrimination.

43. Miss TYABJI (India) suggested the deletion of the word "preference", which seemed to cause difficulty.

44. Mrs. DEVAUD (France), referring to the objections raised to the word "preference", noted that the text was concerned with women in the exercise of their rights in general and not simply as mothers. In any case, the text would in no way affect the privileges which might be granted to mothers, such as insurance benefits and maternity leave.

45. Mrs. COCKCROFT (United Kingdom) said that as the word "preference" seemed to be a bone of contention, she was prepared to delete it from the compromise text she had proposed.

46. Miss BRASDEFER (Mexico) said that if the first article was read as a whole, all possibilities of misunderstanding as to the implications of the word "preference" would be dissipated. It was obvious that maternity benefits did not have "the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by women, on

an equal footing with men, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life", and consequently were not covered by the preferences to be eliminated.

47. Mrs. FARIDI (Pakistan) said that her delegation preferred the original text, and proposed that the Commission should vote on the various texts before it.

48. Mrs. DEVAUD (France) suggested the addition of the words "impairing or" after the words "the effect of or the purpose of" in the compromise text proposed by the United Kingdom delegation.

49. Mrs. COCKCROFT (United Kingdom) accepted the amendment.

50. The CHAIRMAN noted that there was a consensus in favour of deleting the word "preference". If there were no objections, she would take it that the compromise text proposed by the United Kingdom representative, as amended by the French representative, and with the deletion of the word "preference", was adopted by consensus.

51. It was so decided.

## Article 2

52. Mrs. SALYO (Indonesia) preferred the alternative to the original text, which was too precise and hence restrictive. Moreover, it implied intervention in the internal affairs of States by calling upon each State party to "embody the principle of equality of rights in its Constitution". Some countries, such as Indonesia, would have great difficulty in amending their constitution.

53. Mrs. FARIDI (Pakistan) and Miss TYABJI (India) endorsed that point of view.

54. Mrs. COCKCROFT (United Kingdom) also preferred the alternative text of article 2 - even though it was a little terse but suggested that the words "discrimination against women in all its forms" in line 3 should be replaced by the words "all forms of discrimination against women", as in the title.

55. Mrs. ROMANOVICH (Byelorussian Soviet Socialist Republic) was in favour of the original text, which provided for measures to eliminate discrimination against women, whereas the alternative merely condemned such discrimination in a general fashion.

56. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) was of the same opinion. The provisions of the Convention could not, of course, immediately become law in every country, but that was no reason to abandon the objectives of the Convention. Moreover, countries that might find it particularly difficult to apply a specific provision could always enter reservations.

57. Mrs. COENE (Belgium) drew the Commission's attention to the text proposed by Belgium for article 2 (E/CN.6/591/Add.1) which, except for one or two changes, followed the original text closely. The Belgian text was more comprehensive and logical, and was more likely to ensure that the intentions of the authors of the convention would be respected. Paragraph (a) in particular solved the difficulty mentioned by the Indonesian delegation and experienced by countries which had no system of control over the constitutionality of laws.



58. Mrs. MØLLER (Denmark) supported the alternative text of article 2 on the grounds that the original text was too detailed and would present too many problems of interpretation.
59. Mrs. DIAZ de VILLALVILLA (Cuba) said she was in favour of the original text because the main purpose of the convention was to ensure that States would promulgate laws eliminating discrimination against women. The wording of the alternative was too general.
60. Mrs. ATHANASAKOS (United States of America) proposed that the words "public authorities and public institutions" in paragraph 1 (b) of the original text should be replaced by "government authorities and government institutions".
61. Mrs. HOERZ (German Democratic Republic) opted for the original text.
62. The alternative was simply a general condemnation of discrimination and did not even go as far as existing instruments, such as the 1967 Declaration on the Elimination of Discrimination against Women and the 1958 ILO Convention concerning Discrimination in respect of Employment and Occupation (No. 111), particularly article 3, paragraphs (b) and (c).
63. Mrs. PEÑALVER de LEPAGE (Venezuela) was in favour of the original text which, however, should be amended. Specifically, paragraph (a) could be redrafted to read as follows: "Each State Party shall prohibit, by all appropriate means, especially legislation ..... to establish adequate protection for equal rights ..... where existing measures are not sufficient for the purpose ...", the word "public" in paragraph (b) should be replaced by the word "government", and the word "laws" in paragraph (d) should be replaced by the word "norms".

The meeting rose at 1 p.m.