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COMMISSION ON THE STATUS OF WOMEN
INVESTIGATION COLLECTION

Twenty-sixth session

SUMMARY RECORD OF THE 648th MEETING

held at the Palais des Nations, Geneva
on Friday, 24 September 1976, at 10.45 a.m.

Chairman: Mrs. GONZALEZ de CUADROS (Colombia)

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

(a) DRAFT CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN
E/CN.6/574, 591 and Add.1, E/CN.6/L.680 and E/CN.6/NGO/259) (continued)

1. The CHAIRMAN said that, in view of the large amount of work still awaiting the Commission, it would be desirable for members to confine their remarks to the substance of the articles and to entrust a drafting group with the task of considering their form.

Article 11, paragraph 2 (c) (continued)

2. Mrs. DEVAUD (France), speaking on a point of order, said that, in accordance with the rules of procedure, the Commission should vote first on the text furthest removed from the original proposal, namely, the Belgian amendment, before resuming its consideration of paragraph 2 (c). If that amendment were rejected, the Commission would have to decide whether it should consider articles 12, 13 and 14. In doing so, the Commission would take a decision only on the substance of those articles.

3. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said she agreed that the Commission should decide whether articles 12, 13 and 14 were to be considered. Her delegation was of the view that those articles contained some very useful provisions. The Belgian amendment should not be considered within the context of article 11, for it touched upon matters dealt with in article 12. Lastly, she said that her delegation maintained its amendment to article 11, paragraph 2 (c), namely, to add the words "including the possibility of child care services" to the end of the sentence.

4. Mrs. BOKOR-SZEGO (Hungary) said that the provisions of article 11 already adopted by the Commission to a great extent reflected the ideas expressed in the Belgian amendment and that, consequently, all that the Commission had to do was to reach a decision on paragraph 2 (c).

5. Miss TYABJI (India) said that the Belgian amendment and paragraph 2 (c) were quite different, and that the Commission should first complete its consideration of paragraph 2 (c), as amended by the Soviet and Guinean delegations.

6. Mrs. HIRLEMANN (France), speaking on a point of order, said that, if the Commission decided not to consider articles 12, 13 and 14, the text of article 11, paragraph 2 (c) would have to include certain additional provisions, i.e. those contained in the Soviet and Guinean amendments. If, on the other hand, the Commission decided to consider those three articles, there would be no point in amending paragraph 2 (c). Consequently, consideration of paragraph 2 (c) could not be completed until a decision had been reached on that point.

7. Mrs. COENE (Belgium) said that, as the subject of the Soviet amendment was dealt with in article 13, she shared the views of the French delegation.

8. Mrs. HUSSEIN (Egypt) moved the closure of the debate and proposed that a vote should be taken on the question whether articles 12, 13 and 14 were to be examined. The Commission would then revert to its consideration of paragraph 2 (c).

9. Mrs. BRUCE (Assistant Director, Centre for Social Development and Humanitarian Affairs) reminded the Commission that, at an earlier meeting, it had decided to use the alternative text of article 11 as the basic text. In adopting that decision, the Commission seemed to have overlooked foot-note g/ on page 116 of document E/CN.6/591 which stated "This text was proposed in substitution of articles 11, 12, 13 and 14".
10. The CHAIRMAN said that, according to rule 48 of the rules of procedure, only two speakers, opposing the closure of the debate, could take the floor.
11. Mrs. CADIEUX (Canada) thanked the Assistant Director for the clarification she had provided and said that, in opting for the alternative text, the Commission had implicitly decided not to consider articles 12, 13 and 14. Her own delegation, like many others, had thus thought that those three articles would not be considered, and therefore she was now opposed to the closure of the debate.
12. Mrs. MØLLER (Denmark) said that she, too, thought that the Commission had already decided the question. Her delegation was nevertheless prepared to examine any provision that the Commission might decide to take up. She thought, however, that the same issue could not be voted on twice, and she would therefore abstain from the vote on the question whether the three articles should be examined.
13. The CHAIRMAN put to the vote the proposal that articles 12, 13 and 14 should be considered.
14. The proposal was adopted by 10 votes to 9, with 4 abstentions.
15. Mrs. ATHANASAKOS (United States of America) said that she supported the Soviet amendment but could not accept the amendment submitted by Guinea at the 647th meeting to add the words "the granting of free medical care during pregnancy, confinement and the post-natal period" to sub-paragraph (c), because the expression "the necessary supportive social services" covered all types of service. Where necessary, what was meant by supportive social services should be defined at the national level.
16. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said that she supported the Guinean amendment because not all women had the means to pay for the medical care in question. She could not understand why the United States delegation was opposed to the amendment.
17. The CHAIRMAN drew attention to article 12, which contained provisions similar to those of article 11 paragraph 2 (c).
18. Mrs. MAKA (Guinea) said that, in her country, women enjoyed free pre-natal and post-natal care but in many developing countries that was not so. That was her reason for submitting the amendment.
19. Mrs. ATHANASAKOS (United States of America) said that, if the Commission decided to adopt the Guinean amendment, it should be specified that free care should be granted only to women in need. In her view, however, the expression "necessary supportive social services" covered the idea expressed in the amendment.

20. Mrs. GUEYE (Senegal) said she had abstained from the vote on the question whether articles 12, 13 and 14 should be considered since, in her view, paragraph 2 of article 11 reflected the main provisions of article 12. She supported the Guinean amendment.
21. Mrs. COCKCROFT (United Kingdom) also supported the Guinean amendment.
22. Mrs. SALYO (Indonesia) said she thought that the Guinean amendment should be considered when the Commission took up article 12 (f).
23. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) reaffirmed her support for the Guinean amendment, which was designed to strengthen article 11. During the final drafting of the draft convention, an effort should be made to avoid repetition but, for the moment, the idea expressed in the Guinean amendment should be included in article 11.
24. Mrs. MAKAL (Guinea) said she agreed with the Soviet delegation.
25. Miss TYABJI (India) suggested, as a compromise solution, that the words "where necessary" should be added to the Guinean amendment.
26. Mrs. MAKAL (Guinea) said she was surprised at the objections raised to the words "granting of free medical care", for the idea was included in article 12 (g) and in sub-paragraph (f) of the alternative text of article 12. The members of the Working Group which had prepared the draft convention had seen fit to include that provision precisely because such services were available in many countries.
27. Mrs. BOKOR-SZEGO (Hungary) moved the closure of the debate and proposed that the Guinean amendment should be put to the vote.
28. The Guinean amendment was adopted by 18 votes to 1, with 3 abstentions.
29. The CHAIRMAN said that she assumed that the text of paragraph 2 (c), as amended by the Guinean and USSR delegations was generally acceptable. If there were no objections, she would take it that the text was approved by consensus.
30. It was so decided.
31. Mrs. COENE (Belgium) and Mrs. DEVAUD (France) said that, in their view, the provisions of sub-paragraph (c) which the Commission had just approved by consensus were out of place in article 11.
32. Mrs. ATHANASAKOS (United States of America) reminded the Commission that it had yet to consider her delegation's amendment to article 11. She read it out: "to ensure the health and safety of all workers, male and female, in their conditions of employment". The discussion of that amendment had been suspended the previous day to enable consultations to take place, but they had not yet produced any results.
33. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) suggested that the United States amendment should be considered in connexion with article 12.
34. Mrs. ATHANASAKOS (United States of America) accepted that suggestion.

35. The CHAIRMAN said that, if there were no objections, she would take it that article 11, as amended, as a whole, was approved by consensus.

36. It was so decided.

Article 12

37. Begum FARIDI (Pakistan) said she would refrain from commenting on article 12, not because her delegation opposed it but because the Pakistani position was already set out in document E/CN.6/591.

38. Ms. CARLSSON (Sweden) said that she was in favour of the alternative text because, in the view of her delegation, men and women workers should, as far as possible, be treated in the same way and protective measures should aim at protecting the individual regardless of sex. In addition, the alternative text clearly reflected the view that both parents had the right and the duty to take part in the care of their children.

39. Mrs. CADIEUX (Canada), Mrs. SALOYO (Indonesia) and Mrs. HERRAN (Colombia) also preferred the alternative text.

40. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said it was difficult to decide which of the two texts was the better, as both contained some good elements. She suggested that a working group should be set up to prepare a single text on the basis of the two texts of article 12 and the Belgian and United States amendments.

41. Mrs. HIRLEMANN (France) said she was in favour of the deletion of article 12; if the article was not deleted however, she would prefer the alternative text to the original.

42. Mrs. COENE (Belgium) said that the ideas contained in article 12 were already reflected in article 11. If article 12 were retained, she, too, would prefer the alternative text

43. Mrs. DAHLERUP (Denmark) said that she also preferred the alternative text but supported the USSR representative's proposal that the article be referred to a working group.

44. Mrs. HUSSEIN (Egypt) said that she, too, thought it would be useful to amalgamate the various texts. Nevertheless, on the whole, she preferred the alternative text, because for religious reasons, the provision of the initial text concerning "unwed mothers" would be difficult for some countries to accept in a legislative instrument and it should preferably form the subject of a resolution or recommendation. In addition, the clause "to restrict the employment of women workers in heavy labour" could give rise to difficulties of interpretation. Since the definition of "heavy labour" was currently under study in the ILO, it would be better to await the result before taking up a definite position on the subject.

45. Mrs. LAMINA (Madagascar) said that though she had voted against consideration of articles 12, 13 and 14, she was ready to work on texts accepted by the majority. Nevertheless, if the alternative texts were approved, she would abstain from comment.

46. Mrs. HÖRZ (German Democratic Republic), Mrs. FERRER GOMEZ (Cuba), Mrs. MAKA (Guinea), Miss TYABJI (India) and Mrs. ROMANOVICH (Byelorussian SSR) supported the proposal by the representative of the USSR that article 12 be referred to a working group which would combine the various versions into a single text.

47. Mrs. ESFANDIARI (Iran) said that she had abstained in the vote on whether articles 12, 13 and 14 should be considered, because certain of their provisions were worth including in the convention. She had the same difficulties as the representative of Egypt in connexion with the provision on unwed mothers. Either a vaguer formula should be found or the provision should be deleted.

48. Mrs. GUEYE (Senegal) said that she had abstained in the vote on the question whether articles 12, 13 and 14 should be considered because several of the provisions of article 12 already appeared in article 11 and because, although certain sub-paragraphs of the original text of article 12 were of interest, their purport could be incorporated in paragraph 2 of article 11. The provision "to restrict the employment of women workers in heavy labour" in sub-paragraph (a) of the original text was a questionable one, because it was in the name of the physical superiority of men that many discriminatory acts had been committed against women.

49. She had no firm views about the possible reference of article 12 to a working group.

50. Mrs. DEVAUD (France) said that all the provisions of article 12 already appeared in article 11; the convention should not go into too much detail. She accordingly requested that her proposal that article 12 should be deleted be put to the vote immediately.

51. Mrs. HUSSEIN (Egypt) said that, if article 12 was deleted, she wondered what would happen to the United States amendment, which dealt with a question of great importance for the protection of women.

52. Mrs. HUPAR (United States of America) said that, in a spirit of compromise, she would agree to her amendment to article 12 being considered in connexion with another article.

53. The proposal that article 12 be deleted was adopted by 13 votes to 7, with 2 abstentions.

54. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said that there would have been no difficulty in considering her amendment to article 11 in connexion with article 12, but, since the Commission had decided to delete article 12, she wished to re-introduce her amendment to article 11.

55. After a procedural discussion in which Mrs. HIRLEMANN (France), Mrs. CADIEUX (Canada), Mrs. GUEYE (Senegal), Miss TYABJI (India), Mrs. HUTAR (United States of America), the CHAIRMAN and Miss ST. CLAIRE (Secretary of the Commission) took part, Mrs. NIKOLAEVA said that, so as to avoid any difficulties, she would submit her amendment when the Commission took up article 13.

Article 13

56. Mrs. COENE (Belgium) drew the Commission's attention to the draft of article 13 submitted by Belgium in document E/CN.6/591/Add.1. That text was a redraft of the alternative text of article 13 which appeared in document E/CN.6/591.

57. The CHAIRMAN invited the members of the Commission to decide which version of article 13 would be used as a working text.

58. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said she would like article 13 to begin with a paragraph (a) worded as follows: "(a) The States Parties shall take the necessary measures to ensure protection of the work and health of women by limiting the employment of women in heavy labour and in work which could be physically harmful to them, and they shall take measures to ensure that special rules are applied for the protection of women engaged in work which could be prejudicial to their social function of reproduction. These measures shall be examined and revised periodically in the light of scientific and technological progress". The original text of article 13 could then become paragraph (b).

59. Ms. CARLSSON (Sweden) said she preferred the text of the alternative version because it referred to the obligations of the parents and not just to those of the mother. But it would be necessary either to delete the last part, beginning with the words "as a co-operative effort", or to alter it so that it was left to the State to decide whether or not it wished to co-operate with the private sector. Sweden could not accept the Soviet Union proposal as it referred only to women.

60. Mrs. DAHLERUP (Denmark) and Mrs. SALYO (Indonesia) also supported the alternative text on the ground that it covered both the father and the mother.

61. Mrs. GUEYE (Senegal) said that in her view it was important that the proposed convention should stress above all the protection of the mother. She therefore preferred the original text of article 13.

62. Mrs. MAKA (Guinea) said that she, too, preferred the original text of article 13.
63. Mrs. HUTAR (United States of America) said she favoured the alternative text because its provisions applied to both parents.
64. Mrs. HUSSEIN (Egypt) said that although shared responsibility helped to bring about equality, it was nevertheless true that a man's role could not be identical to a woman's and that special measures were therefore required for women. For that reason the original text of article 13 was to be preferred as a working text.
65. Mrs. PENALVER de LEPAGE (Venezuela) said she preferred the original text for the same reasons as those given by the Egyptian representative.
66. Mrs. CADIEUX (Canada) thought that the Belgian delegation's amendment was too detailed and she therefore preferred the alternative text.
67. Mrs. HERRAN (Colombia) said she was unable wholly to approve the Soviet text as it could encourage a type of discrimination favouring women. She was in favour of the original text of article 13.
68. Mrs. ROMANOVICH (Byelorussian Soviet Socialist Republic) approved the paragraph (a) submitted by the Soviet Union and the adoption as paragraph (b) of the original text, the purpose of which was to create favourable conditions for mothers while allowing them to take part in socially useful work.
69. Mrs. HUTAR (United States of America) said that the alternative text was more in harmony with paragraphs 1 and 2 of article 5 adopted by the Commission.
70. The CHAIRMAN noted that the Belgian amendment did not seem to be supported by the members of the Commission.
71. Mrs. COENE (Belgium) said she had no objection to the Commission limiting itself to choosing between the original and the alternative texts.
72. The CHAIRMAN proposed that the Commission should vote on the choice of the alternative text as a working text.
73. The alternative text of article 13 was adopted as a working text by 12 votes to 7, with 2 abstentions
74. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) proposed that the working text adopted should be preceded by an opening paragraph reading: "measures shall be taken to ensure that special rules are applied for the protection of women engaged in work of a kind that is prejudicial to their social function of reproduction of the population; these measures shall be examined and revised periodically in the light of scientific and technological progress". In the alternative text, which would form the second paragraph of article 13, the word "encourage" should be replaced by the word "adopt", the words "to enable parents" by the words "to enable women" and the words "parental obligations" by the words "maternal obligations".

75. Mrs. HUSSEIN (Egypt) pointed out that the USSR representative had limited the protection afforded women by linking it to their reproductive function. That made the draft amendment more acceptable than the one in which heavy labour alone was mentioned. Nevertheless, it would be better to use an expression such as "from the point of view of their reproductive physiology" - an idea which found expression in the ILO Conventions - rather than the words "social function of reproduction". Review of the measures in the light of progress was also an important idea. Similarly, since the joint responsibilities of men and women had already been mentioned, the changes made to the proposed second paragraph of article 13 were also desirable as they drew attention to the special measures which should be applicable to women.
76. Mrs. GUEYE (Senegal) approved the ideas expressed by the Egyptian representative and supported the Soviet Union amendment; she suggested, however, that the words "of the population" after the words "social function of reproduction" should be omitted.
77. Mrs. HUTAR (United States of America) said she hoped that the original wording of the alternative text would be maintained. She pointed out that the ILO, in its report (E/CN.6/603), had stated that in this respect the trend in legislation was towards making the working environment safe and healthy for everyone. In addition, there seemed to be an inconsistency between requests for equality of opportunity on the one hand and for special protection on the other. It was well known that special protection measures increased the risk of discrimination and jeopardized equal rights and equal treatment.
78. Miss TYABJI (India) proposed that the last part of the Soviet Union amendment should be replaced by the following wording: "These measures to be periodically reviewed so that they are not discriminatory against equal employment opportunities for women, and in the light of scientific progress". The United States and the Soviet Union delegations might perhaps be able to reach a compromise on the basis of that change.
79. Mrs. HUTAR (United States of America) stated that the changes made by the Soviet Union to the alternative text, which would become the second paragraph of article 13, also raised difficulties.
80. Mrs. ROMANOVICH (Byelorussian Soviet Socialist Republic) pointed out that there was no contradiction between the Soviet Union draft amendment and the ILO report referred to. According to article 13(3) of the Declaration on the Elimination of Discrimination against Women, measures for the protection of women were not regarded as discriminatory. It did not seem necessary to mention "parents" in the proposed second paragraph, since the purpose of the convention was to eliminate discrimination against women.
81. Miss BRASDEFER (Mexico) supported the views expressed by the United States representative. It was desirable to introduce new standards whereby men would take their share of the responsibilities involved in bringing up children. However, as certain kinds of work could be dangerous for a pregnant woman, it would be well to state the need for protective measures in a separate paragraph.

82. Miss TYABJI (India), in response to a request from the Soviet Union representative, read out her amendment, which she had slightly rearranged so that it was worded "These measures to be periodically reviewed in case they should prove discriminatory as limiting the choice of employment for women, and in the light of scientific progress".
83. The CHAIRMAN suggested that the representatives of the United States, India and the Soviet Union should reach agreement on a compromise text.
84. Mrs. DEVAUD (France) said she supported the first part of the amendment proposed by the Soviet Union, but she hoped that reference would be made to the resolution concerning a Plan of Action with a View to Promoting Equality of Opportunity and Treatment for Women Workers, adopted by the ILO on 25 June 1975, which provided for the "right to maternity protection" and stated that "all necessary measures should be adopted in the light of scientific knowledge and technological advances to extend the scope and to raise the standards of maternity protection, it being understood that the costs would be borne by social security or other public funds or by means of collective arrangements" (I.7.(a)). That was an excellent text which met the requirements of the Soviet Union, and which the Commission might well make use of, since it had the advantage of having been adopted by the International Labour Conference.
85. The CHAIRMAN suggested that the meeting should be suspended to enable the representatives of the Soviet Union, the United States, France and India to reach agreement on a joint text.
86. The meeting was suspended at 12.10 p.m. and resumed at 12.35 p.m.
87. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said that her delegation and the delegations of France and India had agreed on a joint text. The first part repeated paragraph 4 of article 9 of the ILO Declaration on Equality of Opportunity and Treatment of Women Workers and incorporated the Indian amendment, while the second part consisted of the alternative text of article 13 together with certain changes. The text read as follows:
88. "Measures shall be taken to extend special protection to women for types of work proved to be harmful for them from the standpoint of their social function of reproduction and such measures shall be reviewed and brought up to date periodically, should they prove to be discriminatory as regards the free choice of employment, in the light of advances in scientific and technological knowledge:
- States Parties shall adopt the necessary measures to enable parents, particularly women, to combine fulfilment of family parental obligations, especially maternal obligations, with activity in the labour force, in professions and in public life and shall for that purpose promote the establishment of child care facilities as needed as a co-operative effort of government, business and industry and other institutions and organizations in the private sector".

89- Mrs. HUFARI (United States of America) said she was unable to accept the compromise text introduced by the Soviet Union representative. She proposed that the alternative text of article 13 in its present form should be used, together with the following additional wording:

"The States Parties shall take appropriate measures, including legislation, to ensure the health and safety of all workers, male and female, in their conditions of employment. Protective legislation applying to women only should be reviewed in the light of scientific and technological knowledge and should be revised, repealed or extended to all workers as necessary".

90. Mr. CARLSSON (Sweden) said she supported the United States proposal, which she found more acceptable, and urged delegations to reach a consensus on that text.

91. Mrs. NIKOLAIEVA (Union of Soviet Socialist Republics) said that the United States proposal was unacceptable to her delegation as it introduced certain new elements while omitting others which appeared in the text submitted by the Soviet Union.

92. Mrs. ROMANOVICH (Byelorussian Soviet Socialist Republic) thought that the United States amendment was unacceptable because it included special measures to protect men, whereas it was women who, owing to their maternal function, required special protection.

93. The CHAIRMAN proposed that the decision on article 13 be postponed.

94. It was so decided.

The meeting rose at 1 p.m.