

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
LIMITED
E/CN.6/L.716
13 December 1976
Original: ENGLISH

COMMISSION ON THE STATUS OF WOMEN
Resumed twenty-sixth session
Geneva, 6-17 December 1976
Item 9

ADOPTION OF THE REPORT OF THE COMMISSION
ON ITS RESUMED TWENTY-SIXTH SESSION

DRAFT REPORT

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Chapter ____ INTERNATIONAL INSTRUMENTS
RELATING TO THE STATUS OF WOMEN

(a) Draft Convention on the Elimination of Discrimination against Women

Preamble

1. The Commission considered the Preamble to the Convention at its 663rd, 664th and 665th meetings. It had before it three versions of a Preamble - the original and alternative texts contained in document E/CN.6/591, and the text proposed in the draft Convention by Belgium (document E/CN.6/591, Add.1). Some representatives noted that the text of the Preamble proposed by Belgium duly reflected both the original and the alternative versions and was therefore most suitable as the basis for discussion.

Paragraphs 1 to 5

2. At its 663rd meeting the Commission adopted without a vote the following five paragraphs of the Preamble based on the Belgian version and oral amendments were accepted in the course of the discussion to paragraphs 4 and 5.

The States Parties to this Convention,

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,

CE.76-92155



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Noting that the Universal Declaration of Human Rights affirms 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,

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

Considering the Conventions concluded under the auspices of the United Nations and its specialized agencies and the resolutions, declarations and recommendations adopted by them promoting equality of rights of women and men,

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

Paragraph 6

3. Paragraph 6 of the Preamble, which was adopted without a vote at the 664th meeting of the Commission, read as follows:

"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 and hampers the growth of the prosperity of society and the family, and makes more difficult the full development of the potentialities of women in the service of their countries and humanity,"

Paragraph 7

4. At the 664th meeting India orally proposed the insertion of an additional paragraph based on paragraph 3 of the original text of the preamble. Several oral amendments were submitted to this text in the course of the discussion. A revised version presented by the United Kingdom in document E/CN.6/L.702 was adopted without a vote at the 665th meeting. It read as follows:

"Concerned particularly that scientific and technological progress has in general improved the potential for employment and the development of new skills but without benefitting women to the same extent as men."^{1/}

^{1/} Russian version reads as follows:

Paragraph 8

5. The German Democratic Republic submitted a new paragraph of the Preamble (document E/CN.6/L.703), which read as follows:

"Affirming that the strengthening of international peace and security, friendly co-operation of all States irrespective of their social and economic systems, effective disarmament, the elimination of colonialism and racism in all forms, and the implementation of the right to self-determination are indispensable prerequisites for the safeguarding of the fundamental human rights including those of women;"

6. The United Kingdom orally proposed a sub-amendment to the above text consisting of the deletion of the words "implementation of the", and the substitution of the words "safeguarding of the fundamental rights of women" for the phrase: "safeguarding of the fundamental human rights, including those of women".

7. India orally amended the last part of the amendment to read: "... are vital to the safeguarding of the fundamental rights of women, in the safeguarding of which women should play their full part".

8. Mexico suggested that the concept of development should be reflected in the new paragraph of the Preamble and proposed the addition of the phrase: "the elimination of the gap between developed and developing countries".

9. Senegal proposed to add the word "apartheid" after the word "colonialism", and Colombia suggested changing the word "indispensable" to "important".

10. These various proposals were accepted in the revised text prepared by a working group (E/CN.6/L.704). This text was adopted without a vote at the 665th meeting and included as paragraph 8 of the Preamble. It read as follows:

"Affirming that the strengthening of international peace and security, friendly co-operation among States irrespective of their social and economic systems, total and complete disarmament under strict and effective international control, the elimination of colonialism and racism in all their forms including apartheid, elimination of the gap between developing and developed countries, and the right to self-determination are vital in promoting the fundamental rights of women in the achievements of which they should play their full part."

11. France expressed reservations with respect to certain provisions in the paragraph.

Paragraph 9

12. As the basis for the consideration of this paragraph at its 665th meeting the Commission took paragraph 9 of the Preamble of the draft Convention presented by Belgium (E/CN.6/591/Add.1).

13. India submitted an oral amendment to rephrase the paragraph as follows:

"Convinced that the full and complete development of a country requires the maximum participation of women as well as men in all fields,"

With further amendments by the German Democratic Republic and Iran, the paragraph was adopted without a vote and read as follows:

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

Paragraph 10

14. As the basis for its consideration of this paragraph at its 665th meeting, the Commission took paragraph 8 of the Preamble of the Belgian draft Convention (document E/CN.6/591/Add.1). Sweden submitted amendments to that text, namely to delete the words "the creation of the material and spiritual values of;" to add after the word "society" the words: "so far not fully recognized"; and to change the word "motherhood" for the word "parenthood".

15. The United States of America, supporting in principle the amendment by Sweden, proposed further amendments, so that the paragraph would read as follows:

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

16. At its 665th meeting the Commission adopted without a vote the following text:

"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 parents in the family and in the rearing of children."

Paragraph 11

17. At the same meeting the Commission adopted without a vote the last paragraph of the Preamble (E/CN.6/591/Add.1, Preamble, para. 8), reading as follows:

"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 de facto or de jure,

Have agreed upon the following:"

18. The Preamble as a whole was adopted without a vote at the 665th meeting of the Commission.

Article 4

19. Article 4 was considered at the 660th and 661st meetings of the Commission. It had before it, in addition to the original text of the article (E/CN.6/591), modified versions presented by the United Kingdom (E/CN.6/L.681/Add.1, page 7) and the United States of America (E/CN.6/L.688).

The United Kingdom text read as follows:

1. The adoption of special temporary measures aimed at establishing de facto equality between men and women shall not be considered discriminatory, where circumstances justify their introduction.
2. Measures in the social security field reflecting the different social needs of men and women shall not be considered discriminatory.
3. Measures undertaken for the protection of women at certain branches of work due to their physical nature and for the promotion of the welfare of mothers shall not be interpreted as violating the principle of equality of rights of men and women.

20. The text of the United States of America (E/CN.6/L.688) was the following:

"Adoption of temporary special measures aimed at accelerating de facto equality should not be considered discriminatory and should in no way entail, as a consequence, the maintenance of unequal or separate standards and should be discontinued when the objectives of equality of opportunity and treatment have been achieved".

21. An oral amendment by France to replace the word "and" by the word "but" in the above text was accepted by the sponsor.

22. Denmark orally proposed adding the words: "and men" after the words "conditions for women" and deleting paragraph 2 of the original text of article 4 (E/CN.6/591). During the discussion which followed, however, Denmark withdrew its amendment in favour of the United States' version of the Article.

23. Canada proposed a new paragraph to replace paragraphs 2 and 3 of the United Kingdom amendment, which read as follows:

"Adoption of special measures aimed at protecting maternity shall not be considered discriminatory".

24. This amendment, as sub-amended by Hungary, read as follows:

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

25. At its 661st meeting the Commission adopted, without a vote, paragraph 1 of Article 4, based on the United States' text (E/CH.6/L.668) as orally amended by France.

26. Paragraph 2 of Article 4 as presented by Canada and subsequently further amended by Hungary was adopted by the Commission at its 661st meeting by 15 votes to none with 6 abstentions.

27. Article 4 as adopted by the Commission read as follows:

"1. Adoption by States of temporary special measures aimed at accelerating de facto equality shall not be considered discriminatory but shall in no way entail, as a consequence, the maintenance of unequal or separate standards and should be discontinued when the objectives of equality of opportunity and treatment have been achieved.

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

Final provisions

Article 17

28. Article 17 was discussed by the Commission at its 661st meeting. It had before it the original text of the article (E/CH.6/591) and the text presented in the draft Convention of Belgium (E/CN.6/591/Add.1). The Commission also had before it an additional alternative paragraph proposed for Article 17 (E/CN.6/591).

29. France proposed a new version of article 17 which was based on the original text and which read as follows:

"Aucune disposition de la présente Convention ne peut porter atteinte aux dispositions de droit interne au vigueur dans un pays si celles-ci sont plus favorables aux femmes".

30. The United Kingdom also presented a new version of article 17, which read as follows:

"Nothing in this Convention may be regarded as affecting existing legislation which provides for more extensive measures to eliminate discrimination against women than are provided for in the present Convention."

31. Canada proposed an oral amendment to the version of article 17 presented by France, namely to replace "un pays" with "Etat-Partie".

32. Article 17 as proposed by France and amended by Canada was adopted without a vote by the Commission at its 661st meeting as paragraph 1 of article 17. The Commission noted the need to review the paragraph from the point of view of concordance of the different language versions.

33. The additional alternative paragraph to article 17 (E/CN.6/591) was discussed at the same meeting and the following amended text was adopted:

"Similarly, nothing in this Convention shall 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 if they (si celles-ci in French) provide for more extensive rights for women".

34. Article 17, adopted by the Commission read as follows:

"1. Aucune disposition de la présente Convention ne peut porter atteinte aux dispositions de droit interne au vigeur dans un Etat-Partie si celles-ci sont plus favorables aux femmes.

2. Similarly, nothing in this Convention shall 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 if they (si celles-ci in French) provide for more extensive rights for women".

Article 18

35. At its 661st meeting the Commission adopted an amendment to article 18 proposed by Denmark which read as follows:

"1. The present Convention shall be open for signature by all States.

2. The present Convention is subject to ratification, instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Convention shall be open to accession by any State. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations."

Article 19

36. At its 661st meeting the Commission adopted article 19 as presented in the original text of the draft Convention (E/CN.6/591) which read as follows:

"1. A request for the revision of this Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request."

Article 20

37. Article 20 of the draft convention dealing with withdrawals from the Convention was discussed by the Commission at the 661st meeting. The Commission decided without a vote to delete this article.

Article 22

38. Article 22 was considered at the 663rd meeting. As the basis for its consideration, the Commission took the original text of article 22 contained in E/CN.6/591.

39. The United Kingdom suggested that the number of ratifications necessary to bring the Convention into force should be at least 27, following the precedent of the International Convention on the Elimination of All Forms of Racial Discrimination, or 35, following the precedent of the International Covenants on Human Rights. The United States of America suggested that the number of ratifications should cover at least one third of the States-Members of the United Nations. Hungary and the USSR on the other hand suggested that this figure should be as low as possible so as to make the Convention enter into force at the earliest possible date. The majority of representatives expressed preference for 20 ratifications.

40. Article 22 was adopted by the Commission without a vote and read as follows:

"1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the 20th instrument of ratification or accession.

2. For each State ratifying this Convention or acceding to it after the deposit of the 20th instrument of ratification or accession, the present Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession."

Article 23

41. Article 23 was considered by the Commission at its 663rd meeting on the basis of the original text of the draft Convention (E/CN.6/591).

42. Following the proposal of Hungary, the Commission deleted paragraph (c) and adopted without a vote the text of this article thus amended. It read as follows:

"The Secretary-General of the United Nations shall inform States of the following:

- (a) Signatures, ratifications and accessions under article ...
- (b) The date of entry into force of the present Convention under article ... "

Article 24

43. Article 24 was considered by the Commission at its 663rd meeting. As a basis of its discussion, the Commission took the original text of that article contained in E/CN.6/591. The Commission invited the Legal Counsel of the United Nations for clarification on a number of points. The Commission then adopted article 24 which read as follows:

"This Convention, the Russian, Chinese, English, French and Spanish texts of which are equally authentic, shall be deposited in the archives of the United Nations. Duly certified copies of this Convention shall be transmitted to the Governments of the signatory and acceding States.

In witness whereof the undersigned, duly authorized, have signed this Convention."