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Twenty-sixth Session

SUMMARY RECORD OF THE 634TH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 15 September 1976, at 10.10 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; F/CN.6/NGO/259) (continued)

Article 2 (continued)

1. Mrs. CADIEUX (Canada) said that she preferred the original text, which was more detailed and more precise; furthermore, it suggested positive lines of action but did not imply interference in the internal affairs of States.
2. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said that she also was in favour of the original text of article 2, which proposed specific measures for the elimination of discrimination against women in line with article 2 of the Declaration on the Elimination of Discrimination Against Women. The wording of the alternative text considerably weakened that article and the Working Group had therefore not adopted it.
3. Mrs. SUNDLAND (Sweden), reverting to article 1, adopted the previous day by consensus (see E/CN.6/SR.632), said that if that article had been put to the vote, her delegation would have abstained; for in principle, it favoured a convention that was not against discrimination against women only but against discrimination based on sex, in accordance with the principle of the equality of rights and responsibilities of men and women proclaimed in the Declaration of Mexico.
4. With regard to article 2, she considered that the principle of the equality of rights and responsibilities of men and women in the family and in society, as stated in operative paragraph 5 of the Declaration of Mexico, should be reflected in the convention. However, aware of the social and cultural differences existing in the contemporary world, she was in favour of a wording which would enable countries to solve their problems in accordance with their own national situation. For example, many countries had means other than national legislation to prevent discrimination against women and considered, for instance, that collective agreements were more useful than a general legislation; that was the case in particular of countries which had a high rate of employment and strong trade unions.
5. In view of those considerations, her delegation preferred the original text because it was more precise. However, it wished to propose the following amendments in order to enable governments, with a view to implementing the objectives of the convention, to choose measures best suited to local conditions and national traditions: in paragraph (a), the word "legal" in the third line should be deleted and, in the sixth and seventh lines, the word "shall" should be replaced by "could"; in paragraph (b) the word "ensure" in the second line should be replaced by "encourage". The remainder of the sentence should be modified accordingly.
6. Mrs. DAHLERUP (Denmark), reverting to article 1, regretted that it had not been possible on first reading to reach a consensus on the term "preference", or on any other term covering that concept. The question should be re-examined, for example in connexion with article 4.

7. The protection of the rights of women should in principle have been ensured by the Universal Declaration of Human Rights and by the two instruments based on that Declaration, namely the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, which had entered into force in 1976. However, members had been agreed in recognizing that discrimination based on race and discrimination based on sex would require special attention. The United Nations had first elaborated the International Convention on the Elimination of All Forms of Racial Discrimination and the Commission might use that instrument as a basis, for example, with regard to article 1, which referred to restrictions or preferences based on race.
8. The view had been expressed that men enjoyed preference over women in a great many respects and that preferences granted in favour of women on a temporary basis would help to restore equality. The draft convention should reflect the principle set out in operative paragraph 5 of the 1975 Declaration of Mexico that "Women and men have equal rights and responsibilities in the family and in society".
9. Mrs. HUSSEIN (Egypt) said that she considered it essential to retain the substance of the original text of article 2, since that article should not be a mere reproduction of general principles set out in the Declaration on the Elimination of Discrimination against Women. Care must also be taken to ensure that the future convention did not duplicate other existing conventions.
10. Miss TYABJI (India) noted that the majority of the members of the Commission seemed to favour the original text and she was therefore prepared to support it. She could also accept the Swedish amendments. For her part, she proposed the replacement in paragraph (d) of the word "abolish" by the word "modify".
11. Begum FARIDI (Pakistan) said that she, too, was prepared to support the original text; she had expressed support for the alternative text because it had seemed to her to be more easily acceptable to all countries.
12. Mrs. BOKOR (Hungary) said that she was in favour of the original text of article 2 and pointed out that the principle of non-discrimination had become an imperative rule of international law. There was therefore no doubt that if that principle was embodied in the convention it would impose obligations on States which would have to take legislative measures to ensure its implementation.
13. Mrs. SALYO (Indonesia) said that the important thing was that once the convention was adopted it should be ratified by the largest possible number of countries, and she therefore preferred a general wording for article 2. Furthermore, the general principles set out in article 2 might be developed in the articles dealing with the obligations of States (article 3 and the following articles). However, she was not opposed in principle to the original text; the only provision which would raise difficulties for her country's ratification of the convention was that which provided that each State party should embody the principle of equality of rights in its constitution.

14. Mrs. DEVAUD (France) said that she shared the view of the Hungarian representative. The French Government had expressed reservations concerning the adoption of a convention on the elimination of discrimination against women because there were already several instruments which embodied the long-recognized principle of non-discrimination. However, if a convention was elaborated on that subject, it should be of real significance, and that would not be the case with the alternative text of article 2. While fully respecting the sovereignty of States, the convention should give guidance with regard to the implementation of the principle of non-discrimination.
15. It would, of course, be necessary to ensure that the convention did not conflict with the texts already adopted by the specialized agencies, in particular the ILO.
16. The amendments proposed by Belgium to the original text of article 2 made it clearer and more logical.
17. Mrs. COCKCROFT (United Kingdom) thought that the objective of the convention should be to set forth standards and general principles which would serve as a framework for the formulation of national policies by Governments prepared to accept the legal obligations which it imposed. In order to be effective, the convention should therefore be one that the largest possible number of States could ratify. A new convention which received only a small number of ratifications would have no practical value. The convention should therefore not seek to impose rigid and detailed norms, which would leave very little leeway for Governments to elaborate policies compatible with its provisions and at the same time with the country's resources and requirements. On the contrary, it should be sufficiently flexible to take account of the fact that social and economic conditions differed from country to country and from region to region. However, that flexibility should be accompanied by a precise wording which precluded any possibility of misunderstanding regarding the interpretation of its provisions.
18. Those were the reasons why her delegation had expressed itself on the previous day in favour of the wording of the alternative text of article 2; however, as the original text seemed to have general support, her delegation wished to make it clear that nothing in that text was contrary to the laws and practices of the United Kingdom. It would like, nevertheless, to see agreement reached on a text which was supported by the developing countries, whose problems were very different from those of the developed countries.
19. Mrs. COENE (Belgium) said that she well understood the concern expressed by several delegations that Governments should be allowed greater freedom in the elaboration of a policy adopted to their own national situation; however, the wording of the alternative text was too vague and did not sufficiently guarantee the attainment of the objectives of the convention. Her delegation therefore preferred that the measures to be taken should be indicated explicitly.

20. In order to make the original text of article 2 more specific and more comprehensive, the Belgian delegation had proposed various amendments (E/CN.6/591/Add.1). In the introductory paragraph of paragraph 1, the phrase "denying or limiting as it does their equality of rights with men" was in her view superfluous, since that concept was already included in the term "discrimination". Paragraph (a) of the original text contained a number of different ideas; it had therefore been subdivided in the Belgian draft, to be more logical, into three paragraphs (a), (b) and (c). The words "or shall guarantee", in the penultimate line of paragraph (a), had been replaced by "and to guarantee" (paragraph (a) of the Belgian text), to take account of the fact that not all countries had a written constitution or the right to determine the constitutionality of legislation. The term "public", in paragraph (b), seemed to her delegation preferable to the term "governmental", which was too restrictive; for the same reason, it proposed the deletion of the adjectives "national and local". Paragraph (e) of the Belgian text, which corresponded to paragraph (c) of the original text, used the term "bar" instead of the word "defend", which was in the original text, since the latter verb was ambiguous, meaning "to assume the defence of" as well as "to prohibit". Lastly, the Belgian text contained a new paragraph (g), to take account of the predominant role which organizations and movements whose objective was the advancement of the status of women played in changing the attitude of persons.

21. Mrs. DAHLERUP (Denmark) said that at the outset her delegation had been in favour of the alternative text because it had thought that it would be more acceptable to many countries; however, it would be able to support the original text. The essential point, in its opinion, was that legislative measures should not be regarded as the only means of achieving the objectives of the convention.

22. Mrs. SALYO (Indonesia) said that after the clarification given and the amendments made to the original text of article 2, she would not be opposed to a general consensus on that text.

23. Mrs. LAMINA (Madagascar) said that she was in favour of the original text and considered the alternative text much too vague.

24. Mrs. GUYE (Senegal) said that she supported the original text of article 2 as amended by the Belgian delegation. She suggested a few amendments to the Belgian text: in paragraph (b), the deletion of the words "accompanied by penalties", which were superfluous, since legislative measures were usually accompanied by penalties, in Senegal at least; in paragraph (d), the insertion of the words "and private" between the words "public" and "institutions"; in paragraph (e), the replacement in the French text of the word "éviter" by a stronger verb such as "enrayer"; in paragraph (f), the replacement of the verb "abolish" by the word "modify"; and in paragraph (g), the replacement of the words "all discrimination" by "discrimination". Her delegation had no objection to the adoption of that text, since all the provisions of article 2 were already contained in the Senegalese Constitution.

25. Mrs. ATHANASAKOS (United States of America) suggested the replacement, in the Belgian text, of the phrase "discrimination against women" wherever it appeared by "discrimination based on sex" and similarly the replacement of the words "discrimination in all its forms" by "discrimination". She considered it necessary to retain the phrase "accompanied by penalties", in paragraph (b), since it sometimes happened that countries adopted legislative measures to meet the wishes of the population but deliberately refrained from including sanctions to make them enforceable. In paragraph (d), she preferred the term "governmental" to the term "public".
26. Mrs. COENE (Belgium) observed that, in French, the word "public" had a much broader meaning than the term "governmental", since the latter meant coming from the government; however, there were other public authorities, such as the commune, the province, and the region and if the United States representative's suggestion was adopted, any action taken by those authorities would be excluded.
27. She also considered it necessary to retain the phrase "accompanied by sanctions" in paragraph (b); that term should be understood in the largest possible sense covering all forms of recourse and of penal or civil sanctions.
28. Mrs. ATHANASAKOS (United States of America) observed that the phrase "discrimination based on sex" should replace the phrase "discrimination against women" wherever it appeared in article 2.
29. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said that if the term "public authorities" meant the State authorities, she would prefer the term proposed by the United States representative.
30. Mrs. SUNDLAND (Sweden) said that she found the Belgian proposal to be unduly centred on legislation. In some countries, trade unions and the system of collective agreements could be very effective in the struggle against discrimination against women. Time would be required to study the text and to arrive at a satisfactory wording.
31. Miss TYABJI (India) said that she preferred the original text, which placed less stress on legislation. It might be amended to take account of the view expressed by Belgium.
32. The CHAIRMAN pointed out that it would be necessary to set up working groups, which would meet in the morning from 9 to 10 a.m. and submit the results of their work to a plenary meeting of the Commission.
33. Mrs. BRUCE (Assistant Director, Centre for Social Development and Humanitarian Affairs) described the draft work programme which had been prepared by the officers of the Commission and which might be used by the Commission as a basis for organizing its work. The programme would be circulated very shortly.
34. The CHAIRMAN noted that the general debate on article 2 was concluded. Delegations wishing to do so could give their names to the secretariat for the purpose of setting up the working group which would try to reconcile the various proposals submitted.

Article 3

35. Miss ST. CIAIRE (Secretary of the Commission) read out article 3 of the draft convention.
36. Mrs. COENE (Belgium) proposed the insertion of the word "political" before the word "social" and of the word "legal" after the word "economic".
37. Mrs. PURACHATRA (Thailand) proposed the insertion of the word 'responsibilities' after the words 'human rights'; too often, rights were demanded but responsibilities overlooked.
38. Mrs. BOKOR (Hungary) felt that the phrase "in the social, economic, cultural and other fields" covered all areas. The word "legal" did not add much, for the areas listed must necessarily be protected legally. She would prefer the word "civil" to the word "legal".
39. Mrs. HUSSEIN (Egypt) considered that, in order to take the Belgian point of view into account, the words "including legislative measures" or the words "mainly legislative measures" could be added after the words "all appropriate measures".
40. Mrs. COCKCROFT (United Kingdom) agreed with the comments of the Hungarian representative. She would prefer the word "full" to the word "adequate".
41. Begum FARIDI (Pakistan) endorsed the comments of the representatives of Thailand and the United Kingdom.
42. Mrs. BOKOR (Hungary) considered that the word "legal", which had been proposed by Belgium, should be replaced by the word "civil", which should be inserted before the word "social"; the idea would be introduced to ensure that private life and family law would be included in the areas listed.
43. Mrs. COENE (Belgium) said that the word "civil" was too restrictive. She proposed the wording "States Parties shall undertake, in all fields, and particularly in the political, social, economic ... fields", in order to gain the widest possible acceptance for the article.
44. Mrs. SIIPIIA (Under-Secretary-General for Social Development and Humanitarian Affairs) referred to the covenants on human rights, particularly the covenant on Civil and Political Rights, and said that it would be regrettable if civil rights were not mentioned in the text under consideration, as they were in the other human rights instruments.
45. Mrs. SUNDLAND (Sweden) supported the comments made by Mrs. Sipila and the representatives of Hungary and Thailand.
46. Mrs. DEVAUD (France) considered that the wording "in the field of civil, political, social, ... rights" would be preferable to the wording "in the civil, political, ... fields". The word "responsibility" could hardly appear in article 3, for although the State could guarantee exercise of rights it was up to the individual to assume responsibilities.
47. Mrs. COENE (Belgium) endorsed the comments of the French representative.
48. Mrs. PURACHATRA (Thailand) explained that insertion of the word "responsibility" would mean that the Government should ensure that women were entrusted with responsibilities in planning and in governmental or administrative activities, for example in housing.

49. Mrs. BOKOR (Hungary) said that she appreciated the concerns of the representative of Thailand and thought that they could be reflected in article 8 of the draft.

50. The CHAIRMAN read out article 3, as amended: "States Parties shall undertake, in the fields of civil, political, economic, social, cultural and other rights, all appropriate measures 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".

51. Mrs. ATHANASAKOS (United States of America) found article 3 as amended acceptable but proposed that it should be placed immediately after article 1.

52. Miss GONZALEZ MARTINEZ (Mexico) said that the wording proposed by the Belgian representative seemed to cover not only rights but also areas of action and activity, both governmental and private. The addition of the word "rights" in the first part of the article restricted its scope. The word should, therefore, be excluded. Furthermore, instead of saying "all appropriate measures, including legislative measures, as the representative of Egypt has proposed, it would be better to say: "all necessary legislative and administrative measures".

53. Miss TYABJI (India) agreed that the word "rights" in the first part should be deleted.

54. Mrs. SALYO (Indonesia) supported the amendment proposed by the representative of the United Kingdom. She agreed, too, that the wording "civil, political ... rights" should be avoided because more than rights was involved.

55. Mrs. PURACHATRA (Thailand) proposed that the text should be referred to a working group.

56. The CHAIRMAN observed that the Commission had almost reached agreement on the matter and that it would be better to continue the discussion.

57. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) and Mrs. COCKCROFT (United Kingdom) agreed with the Chairman.

58. Miss TYABJI (India) suggested the wording "States Parties shall undertake, in the field of social, economic, political, cultural and civil affairs, 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".

59. Mrs. COENE (Belgium) said that the word "civil" should be deleted and the words "and other" added after the words "social, economic, political, cultural". In that context, the word "civil" would be meaningless in French.

60. Mrs. SALYO (Indonesia) said that she was not satisfied with the word "affairs", the meaning of which was too general for a legal instrument. She hoped that the text adopted would be as similar as possible to the basic text and proposed that the words "including legislation" be inserted after the words "all appropriate measures".

61. Miss GONZALEZ MARTINEZ (Mexico) considered that the words "and administrative" should be added after the words "including legislation" in order to cover all areas.

62. Mrs. BOKOR (Hungary) supported the inclusion of the words "including legislation" but considered that the idea of administrative measures was implicit in the word "appropriate".
63. Miss GONZALEZ MARTINEZ (Mexico) considered that there would be no need for a specific reference to administrative measures if the word "appropriate" was replaced by the word "necessary".
64. Mrs. COCKCROFT (United Kingdom) said that "appropriate" was the correct word in English and in the circumstances was better than the word "necessary".
65. The CHAIRMAN suggested that the text of article 3 be referred to the Drafting Committee.
66. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said she failed to see why the Commission should refer the text to the drafting group, since it had reached agreement on the text proposed by India. She formally proposed that the Commission should proceed to examine the following article.
67. Mrs. HIRLEMAN (France) recalled the Belgian representative's suggestion which would amend the first line of article 3 to read: "States Parties shall undertake, in all fields, and particularly in the political, social, economic ... fields". That did not conflict with the Indian proposal but the Belgian addition might satisfy all members of the Commission.
68. Mrs. NILOAEVA (Union of Soviet Socialist Republics) proposed that the meeting be suspended for a few minutes in order to allow interested delegations to consult one another.
69. Mrs. PENALVER DE LEPAGE (Venezuela) supported that proposal. She wondered what fields other than the social, economic, political and cultural fields should be taken into account.
70. The CHAIRMAN said that if there were no objections, she would take it that members of the Commission adopted the Soviet proposal to suspend the meeting.
71. It was so decided.
72. The meeting was suspended at 12.20 and resumed at 12.25.
73. Mrs. DEVAUD (France), speaking on behalf of those members of the Commission who had taken part in drafting article 3 in its final form, read out the wording agreed upon: "States Parties shall undertake in all fields, particularly the political social, economic and cultural fields, all appropriate and necessary 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".
74. The CHAIRMAN said that if there were no objections, she would take it that the Commission approved the text of article 3 as amended.
75. It was so decided.

Article 4

76. Mrs. CARLSSON (Sweden), speaking on behalf of the Danish and Swedish delegations, requested that the discussion on article 4 should be deferred until a later date. The article related to questions which were also dealt with in other provisions of the draft convention, and the two delegations had reservations about its content. Article 4 concerned very specific questions, even though it had been placed in the section on "General Provisions".

77. Begum FARIDI (Pakistan) proposed the deletion of the words between square brackets in article 4, paragraph 2.

78. Mrs. CADIEUX (Canada) said that she shared the opinion of the Danish and Swedish delegations and was in favour of deferring consideration of the article until a later date.

79. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said that she failed to understand why consideration of an article designed to protect women as mothers should be deferred until a later date. As had been said, mothers filled an important function, which the State should protect. The text before the Commission was brief and clear; its purpose was to assist women materially and, to that end, to ensure the adoption of appropriate measures; it was of concern to women throughout the world.

80. Mrs. ATHANASAKOS (United States of America) said that it was obvious to her why consideration of article 4 should be deferred until a later date: the Commission was currently examining general provisions and the normal place of article 4 was in the chapter on social and economic rights. If the Commission was to be able to prepare a logical text, it must examine article 4 at the same time as article 11.

81. Miss TYABJI (India) considered that article 4 had a place in the general provisions, because it expressly mentioned acts which were not to be considered discriminatory. She objected, however, to the words "at certain branches of work" in paragraph 2.

82. Mrs. SALYO (Indonesia) drew attention to footnote (b), according to which several members of the Working Group has proposed the deletion of article 4. She hoped the matter would be clarified.

83. Miss GONZALEZ MARTINEZ (Mexico) considered that article 4 was currently out of context and should be examined in the light of articles 11, 12 and 13, which dealt with the protection of women workers and women's right to work. She therefore supported the Swedish representative's proposal.

84. Mrs. COCKCROFT (United Kingdom) said that wherever article 4 was put, its contents should be examined and the discussion continued. She proposed a slight amendment to paragraph 1, which should read, "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". Her delegation was prepared to accept the text of paragraph 2 as it appeared in the

draft convention, including the words between square brackets. In conclusion, she proposed that a third paragraph should be added reading, "Measures in the social security field reflecting the differing social needs of men and women shall not be considered discriminatory". She had no firm opinion about where the article should appear in the draft convention.

85. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics), replying to the question raised by the representative of Indonesia, said that all members of the Working Group had been in favour of maintaining an article designed to protect mothers, but that several of them had questioned the use of the words shown between square brackets in paragraph 2 of existing article 4.

86. Mrs. DEVAUD (France) considered that the United Kingdom amendment was extremely dangerous and ran counter to the aim of the convention; she wondered who would define the circumstances which would justify adoption of the temporary measures. For example, the Governments of several countries where there was unemployment might maintain that men needed work more than women and exclude women from the labour market on the ground that circumstances justified their exclusion.

87. As to where the article should come in the draft convention, her delegation considered that it should be included among the provisions concerning social and economic rights. The article should aim expressly at protection of maternity, not at the protection of women because of their "physical nature". She referred, in that connexion to the recent Paris symposium on genetics in which the question of that nature had been placed in its proper perspective. She felt she must insist on that point because many injustices had been perpetrated on that pretext.

88. Mrs. ATHANASAKOS (United States of America), supported by Mrs. SALYO (Indonesia), requested that the Commission should continue consideration of the article when it considered article 11; her delegation would propose an amendment to article 11 which should settle the difficulties currently under discussion.

89. Mr. EHSASI (Iran) asked the Commission to decide whether or not the debate on article 4 should be continued.

90. The CHAIRMAN drew attention to rule 45 of the rules of procedure concerning adjournment of debate.

91. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) suggested that, in view of the late hour, the meeting should be adjourned and the Commission should revert to the matter, which was clearly a sensitive question, at the following morning's meeting.

92. The CHAIRMAN, referring to rule 45 of the rules of procedure, put to the vote the proposal for the adjournment of the debate on article 4.

93. The proposal for adjournment was adopted by 12 votes to 7, with 3 abstentions.

94. Mrs. JANJIC (International Labour Office) drew attention to the text of the Declaration on Equality of Opportunity and Treatment for Women Workers which had been adopted by the International Labour Organisation in June 1975 and which contained two provisions parallel to article 4, namely, paragraph 2 of article 1 and paragraphs 2 and 4 of article 9. The text of the Declaration was annexed to document E/CN.6/603.