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COMMISSION ON THE STATUS OF WOMEN

Twenty-sixth Session

SUMMARY RECORD OF THE 650th MEETING

held at the Palais des Nations, Geneva,
on Monday, 27 September 1976, at 9.55 a.m.

Chairman: Mrs. GONZALEZ de CUADROS (Colombia)

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INTERNATIONAL INSTRUMENTS RELATING TO THE STATUS OF WOMEN (agenda item 5) (continued)

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

Article 15

1. The CHAIRMAN invited the Commission to consider article 15 of the draft convention as it appeared in document E/CN.6/591, annex III, and the corresponding article proposed by Belgium in document E/CN.6/591/Add.1.
2. Mrs. HUSSEIN (Egypt) said she could accept the text of article 15 given in document E/CN.6/591, annex III, but she wished to make a reservation with respect to the provision in paragraph 4, which was inconsistent with her country's legislation. Egyptian law, being based on Islamic law, required a woman to follow her husband and to have the same domicile. The law was, however, being revised and she would therefore not oppose the provision in that paragraph.
3. Mrs. SALYO (Indonesia) said that in her country, where the majority of the population was Moslem, the law similarly restricted a wife's freedom to choose her residence; but Indonesian legislation provided that the residence should be decided by joint agreement between husband and wife and not by the husband alone. She was therefore able to accept article 15.
4. Mrs. COCKCROFT (United Kingdom) said that article 15 was acceptable apart from paragraph 3, the purpose of which was not very clear to her. The wording seemed obscure and in her view might give rise to far too wide an interpretation. She therefore proposed its deletion.
5. Mr. EHSASSI (Iran) associated himself with the reservation made by the representative of Egypt concerning paragraph 4; under Iranian civil law, which was based on Islamic law, women did not have the right of free movement and choice of residence.
6. Begum FARIDI (Pakistan) said that her delegation accepted article 15.
7. Mrs. DAHLERUP (Denmark) said that the wording of article 15 was imprecise and might give rise to divergent interpretations. She proposed therefore that the rights provided for in that article should be set out in a single paragraph worded as follows:

8. "Men and women shall be accorded the same civil and legislative status and in particular women shall be accorded the same rights as men with regard to entering into contracts, enforcement of property rights and in all stages of procedure before judiciary authorities."
9. Mrs. COENE (Belgium) said that the amendment which her delegation had submitted in document E/CN.6/591/Add.1 supplemented paragraph 2 of article 15 on the basis of paragraph 1(b) of article 6 of the Declaration on the Elimination of Discrimination against Women. It substituted the words "legal capacity identical to that of men"

for the words "equal ... legal capacity with men" and introduced a reference to the exercise of that capacity. The amendment also proposed the insertion of the word "particularly" before the words "in all stages of procedure in courts and tribunals", because in the Belgian legal system procedure in courts and tribunals was only one aspect of the exercise of legal capacity, which covered a much wider field.

10. In paragraph 3, the Belgian amendment proposed to add, after the words "all contracts", the words "and all other legal instruments of any kind", because there were other kinds of legal instrument besides contracts - wills, for instance - which might restrict the legal capacity of women.

11. In paragraph 4, the Belgian amendment proposed that the words "and domicile" should be added after the words "their residence," because in a number of legal systems the notions of domicile and residence both existed but were not identical in meaning. In that connexion, she drew attention to the study made by the Council of Europe on the concepts of residence and domicile.

12. Ms. SANDLUND (Sweden) agreed with the representative of Denmark that the existing wording of article 15 was not sufficiently clear, and proposed the replacement of paragraph 2 by the text which her delegation had submitted in annex I to document E/CN.6/591 (p. 75).

13. Miss TYABJI (India) said she shared the concern of the United Kingdom representative regarding paragraph 3, which might be misinterpreted. In her view the paragraph seemed pointless and she therefore proposed its deletion.

14. Mrs. HUSSEIN (Egypt) said she supported the Swedish amendment to paragraph 2, which she considered clearer and more comprehensive than the original text, and which stated a general principle capable of practical application.

15. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said that she could fully accept the original text of article 15, but could equally agree to the amendment by Belgium, which stated certain provisions more precisely and supplemented them. In paragraph 2, for instance, the Belgian text did not merely recognize women's legal capacity as identical to that of men but also covered the exercise of that capacity.

16. It was difficult for her to comment on oral amendments for which she had no Russian text. She requested that in future all amendments should be submitted in writing and translated into Russian. She was surprised, also, that the summary records of the Commission's meetings were not issued in Russian.

17. Mrs. BRUCE (Secretariat) pointed out that all the amendments which had been submitted in writing up to then, and which were given in documents E/CN.6/L.676 to L.681, had been issued in Russian. She asked delegations to submit their amendments to the Secretariat in writing sufficiently early for them to be translated into the various languages in good time.

18. With regard to the summary records of meetings, she drew the attention of the Commission to rules 29 and 33 of the rules of procedure of the Functional Commissions of the Economic and Social Council. Rule 29 provided that "Chinese, English, French,

Russian and Spanish shall be the official languages, and English, French and Spanish the working languages of the Commission." Rule 33 provided that "Summary records shall be drawn up in the working languages" and that "A translation of the whole or part of any summary record into any of the other official languages shall be furnished if requested by any member." If the representative of the Soviet Union so requested, therefore, the summary records would be translated into Russian.

19. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) asked that all the amendments submitted in writing should be issued in Russian and that the summary records of the meetings dealing with agenda items 3 and 4 should also be issued in Russian.

20. Mrs. BOKOR-SZEGO (Hungary) said she did not consider that the text proposed by Denmark covered all the points in article 15, in particular paragraph 4. She was therefore in favour of the original text, with the amendments proposed by Belgium to paragraphs 2, 3 and 4, which she fully supported.

21. Mrs. DEVAUD (France) said that she too supported the Belgian amendments, which gave greater precision to paragraphs 2, 3 and 4 of article 15 and supplemented them.

22. Mrs. ROMANOVICH (Byelorussian Soviet Socialist Republic) also supported the text proposed by Belgium.

23. Mrs. HUTAR (United States of America) supported paragraph 1 of the original text, the paragraph 2 proposed by Sweden and the paragraphs 3 and 4 proposed by Belgium.

24. Princess PURACHATRA (Thailand) said she agreed with the views of the United States representative.

25. Mrs. DAHLERUP (Denmark) said that she would not press her proposal to replace the four paragraphs of article 15 by a single paragraph.

26. The CHAIRMAN suggested that article 15 should be considered paragraph by paragraph.

Paragraph 1

27. Paragraph 1 was adopted by consensus.

Paragraph 2

28. Ms. SANDLUND (Sweden) said that her delegation's amendment to paragraph 2 (E/CN.6/591, annex I, page 75) was worded as follows:

29. "The States Parties shall accord to women equal civil and legal capacity with men and shall in particular give them equal rights to conclude contracts and administer property and treat them equally in all stages of procedure in courts and tribunals."

30. Miss TYABJI (India) said she supported the Swedish amendment, which seemed to her more precise than the Belgian amendment.

31. Mrs. CADIEUX (Canada) also supported the Swedish amendment.
32. Mrs. COENE (Belgium) said that, in her view, the wording proposed by Sweden was not as comprehensive as that proposed by Belgium. She proposed, therefore, that the two texts should be combined in a single paragraph worded as follows:
33. "The States parties shall accord to women a civil and legal capacity identical to that of men, and the exercise of that capacity. They shall in particular give them equal rights to conclude contracts and administer property and treat them equally in all stages of procedure in courts and tribunals."
34. Ms. SANDLUND (Sweden) said she fully supported the text proposed by the Belgian representative, which seemed to her an excellent compromise.
35. Mrs. HUSSEIN (Egypt) said that she, too, supported the Belgian proposal but she pointed out that in article 16 (g) there was a reference to women's rights "in respect of the ownership, use and disposition of their property"; the Commission would thus have to consider the same matter twice.
36. Mr. EHSASSI (Iran) also supported the text proposed orally by the Belgian representative.
37. The Belgian oral amendment to paragraph 2 was adopted unanimously.

Paragraph 3

38. Miss TYABJI (India), supported by Mrs. COCKCROFT (United Kingdom) and Mrs. COENE (Belgium), proposed the replacement of the words "all contracts and all other legal instruments of any kind" in the text of the Belgian amendment (E/CN.6/591/Add.1) by the words "all legal instruments of any kind".
39. Mrs. PENALVEI DE LEPAGE (Venezuela) said that the words "acto jurídico" must be used to translate the words "legal instrument" into Spanish.
40. Begum FARIDI (Pakistan) said she was in favour of retaining the word "contracts" in paragraph 3.
41. Mrs. COENE (Belgium) said that, as a contract was a legal instrument, she had no objection to the Indian amendment.
42. Mrs. HUSSEIN (Egypt), supported by Mrs. NIKOLAEVA (Union of Soviet Socialist Republics), said that the words "legal instrument" had a very wide meaning; in the circumstances, it would be better to use the term "contracts". She therefore supported the original Belgian amendment.
43. Mrs. COENE (Belgium) said that a contract was a legal instrument necessarily involving two parties, whereas other legal instruments, such as wills, were unilateral acts. It was because the word "contract" seemed too restrictive that the Belgian delegation had originally proposed that there should also be a reference to other legal instruments.

44. Mrs. SALYO (Indonesia) said she was in favour of retaining the word "contracts". She supported the original Belgian amendment.
45. Mrs. HUSSEIN (Egypt) thought it would be better to retain the word "contracts" since the idea was to protect women in cases where they might, under duress, agree to the limitation of their legal capacity.
46. Miss TYABJI (India) withdrew her amendment.
47. The CHAIRMAN put paragraph 3 of the original Belgian text to the vote.
48. The paragraph was adopted by 22 votes to none, with 1 abstention.

Paragraph 4

49. Miss TYABJI (India) said she entirely supported the Belgian amendment to... paragraph 4.
50. Begum FARIDI (Pakistan) said that her Government had approved the original text of the paragraph under consideration. The addition of the words "and domicile" proposed by the Belgian delegation substantially altered its scope.
51. Mrs. SALYO (Indonesia) said that while her Government had approved the original text of paragraph 4 of article 15, her delegation had no objection to domicile being mentioned.
52. The CHAIRMAN put paragraph 4 of the Belgian amendment (E/CN.6/591/Add.1) to the vote.
53. Paragraph 4 was adopted by 20 votes to none, with 3 abstentions.
54. Mr. EHSASSI (Iran) said that his delegation had been unable to vote for paragraph 4 as amended by the Belgian proposal.
55. The CHAIRMAN said that if there were no objections, she would take it that the Commission approved article 15 as a whole, as amended, by consensus.
56. It was so decided.

Article 16

57. Mrs. FERRER GOMEZ (Cuba) said she approved the whole of article 16 except for subparagraph (d) of paragraph 1, which prejudiced unmarried mothers. She would in due course submit an amendment.
58. Miss TYABJI (India) said that, although she supported the text of article 16 as a whole, she too would in due course submit an amendment to paragraph 1 (d).
59. Mrs. SALYO (Indonesia) reminded members of the Commission that in its observations, her Government had proposed the deletion of paragraph 3 of article 16. If the Commission decided to maintain the paragraph, her delegation would enter reservations.

Article 16, introductory paragraph

60. The CHAIRMAN said that in the absence of objections she would consider that the Commission approved the introductory paragraph.

61. It was so decided.

Paragraph 1, subparagraph (a)

62. Mrs. COENE (Belgium) said that her delegation proposed that subparagraph (a) should be supplemented by a reference to the right of women not to enter into marriage (E/CN.6/591/Add.1).

63. Mrs. BOKOR-SZEGO (Hungary), supported by Mrs. HUSSEIN (Egypt), said that she could not support the Belgian amendment; she could not see what purpose it served, because subparagraph (a) of the original text related to a right, not an obligation.

64. Mrs. COENE (Belgium) withdrew her amendment.

65. Mrs. HUSSEIN (Egypt), supported by Miss TYABJI (India) and Ms. LAMINA (Madagascar), suggested that subparagraph (a) be deleted and that, on the basis of article 6, paragraph 2 (a), of the Declaration on the Elimination of Discrimination against Women, subparagraph (b) should read: "Women shall have the same right as men to free choice of a spouse and to enter into marriage only with free and full consent".

66. Mrs. COENE (Belgium), supported by Mrs. GUEYE (Senegal) thought it necessary to maintain subparagraph (a) because it stipulated that a State could not adopt measures forbidding a woman to marry. Subparagraph (b) was concerned with a different matter, namely, that once authorized to marry, a woman must be able to enter into marriage with her full consent.

67. Mrs. HUSSEIN (Egypt) withdrew her amendment.

68. The CHAIRMAN said that in the absence of objections she would consider that the Commission approved subparagraph (a) by consensus.

69. It was so decided.

Subparagraph (b)

70. The CHAIRMAN said that in the absence of objections she would consider that the Commission wished to adopt subparagraph (b) by consensus.

71. It was so decided.

Subparagraph (c)

72. Mrs. COCKCROFT (United Kingdom) said that the words "and duties" seemed rather vague and inaccurate. It would be more correct to speak of responsibilities, since

the duties of men and women during marriage and at its dissolution were not strictly equal. In the United Kingdom, for instance, so far as the obligation to maintain the family was concerned, men had more duties than women. She proposed, therefore, that the words "and duties" be deleted.

73. Begum FARIDI (Pakistan) said that she appreciated the concern of the United Kingdom representative but, in view of the legislation in force in Pakistan, she had reservations with respect to the dissolution of the marriage.

74. Mrs. HUSSEIN (Egypt) said that under current Egyptian legislation women did not have equal rights, let alone equal duties, with men in the matter of marriage and the dissolution of marriage but that measures to improve the situation were under consideration. She pointed out, in that connexion, that equality did not mean identity; it was more a question of ensuring the complementary role of the spouses in the interest of the family, the basic unit of all society, as was recognized in article 6 of the Declaration on the Elimination of Discrimination against Women. Time would be needed to develop a system ensuring equality of rights to men and women without undermining the unity and concord of the family and its legitimate interests from the legal point of view. She accordingly wished to enter reservations with respect to any future reference to unmarried mothers. In view of those considerations, she preferred to abstain on subparagraph (c).

75. Mrs. SALYO (Indonesia) said that her delegation had no objection to the words "and duties" in the question of marriage, since the wife could contribute to the maintenance of the family together with the husband. She reminded the Commission, however, that in document E/CN.6/591 her Government had already entered reservations with respect to the words "and at its dissolution".

76. Mr. EHSASSI (Iran) said that pending adoption by his Government of legislative measures to give women equal rights and duties with men, particularly at the dissolution of marriage, he could not express an opinion on the existing text of subparagraph (c).

77. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said that she would prefer to retain the words "and duties" which emphasized the responsibility of the spouses not only to their children but to each other and tended to strengthen family unity.

78. Miss TYABJI (India) supported the United Kingdom representative's suggestion that the words "and duties" be deleted. In so far as dissolution of marriage was concerned, Indian legislation did not yet give women equal rights with men, but it was shortly to be amended in that sense. She could accordingly support the text of subparagraph (c).

79. The CHAIRMAN, noting that several representatives wished to retain the words "and duties", asked the United Kingdom representative whether she insisted on their deletion.

80. Mrs. COCKCROFT (United Kingdom) said that she maintained her proposal. She requested that it be put to the vote.
81. Mrs. DEVAUD (France) asked the United Kingdom representative whether she wished to delete the words "and duties" or to replace them by the words "and responsibilities".
82. Mrs. COCKCROFT (United Kingdom) said that she would prefer deletion of the words "and duties" but, in a spirit of compromise, would agree to the words "and responsibilities".
83. Mrs. OSCHINSKY (Belgium) said that the Convention should not be based on national laws of a discriminatory nature, for example in the case of dissolution of marriage; it was important, on the contrary, that it should oblige States to bring their legislation into line with the principle of non-discrimination within a certain time limit. Her delegation could support the United Kingdom representative's last proposal, that the words "and duties" be replaced by the words "and responsibilities".
84. Ms. SANDLUND (Sweden) said that she could not agree to the deletion of the reference to equal rights but could accept the word "responsibilities" which was, moreover, used in paragraph 5 of the Declaration of Mexico on the Equality of Women and their Contribution to Development and Peace.
85. Mrs. BOKOR-SZEGO (Hungary) said that she failed to see how it was possible to speak about "responsibilities" in the case of dissolution of marriage.
86. Mrs. COCKCROFT (United Kingdom) said that the dissolution of marriage gave rise to serious problems of responsibility, particularly with regard to the children and to property acquired during the marriage; settlement of such questions was sometimes a source of great distress. It was important to put an end to such injustices and in the United Kingdom consideration was being given to the introduction of fairer legislation.
87. Miss TYABJI (India) said that she could agree to replacement of the words "and duties" by the words "and responsibilities".
88. Mrs. BOKOR-SZEGO (Hungary) wondered whether the French word "responsabilités" really met the requirements of the United Kingdom representative.
89. The CHAIRMAN said that that was purely a question of semantics. She said that she would put subparagraph (c), as amended by the United Kingdom representative, to the vote.
90. Subparagraph (c), as amended by the United Kingdom, was adopted by 22 votes to none, with 2 abstentions.
91. Begum FARIDI (Pakistan) said that although she had voted for the United Kingdom amendment, she wished to enter reservations with respect to the word "responsibilities".

92. Mrs. HUSSEIN (Egypt) said that she had reservations on the subparagraph as a whole, which conflicted with Egyptian laws.

Subparagraph (d)

93. Mrs. FERRER GOMEZ (Cuba) proposed the following new wording: "Women, whether married or not, have equal rights and responsibilities with men in matters relating to their children. In all cases, the interests of children shall be paramount".

94. Mrs. GONZALEZ MARTINEZ (Mexico), said that the Cuban representative's proposal was consistent with Mexico's laws and position. She supported her amendment.

95. Mrs. SALYO (Indonesia) reminded the Commission that, in annex I to document E/CN.6/591, (page 76) her delegation had proposed the following text: "Equal rights and duties with men in matters relating to their children; the interests of the children shall be paramount". That wording was sufficiently neutral to remove the possibility of controversy based on the marital status of the mother.

96. Mrs. COCKCROFT (United Kingdom) supported the Cuban representative's amendment, which seemed clearer than the original text. She proposed, however, that the text be brought into line with the preceding subparagraph by replacing the words "and duties" by the words "and responsibilities".

97. Mrs. COENE (Belgium) supported the Cuban proposal which met her wishes. Its text was clearer than the original version of subparagraph (d).

98. Begum FARIDI (Pakistan) said that, in her view, the interest of the child should prevail over any other consideration, and she therefore supported the Cuban representative's proposal.

99. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) supported the Cuban representative's proposal which improved the wording of subparagraph (d).

100. Mrs. HUSSEIN (Egypt) said that the new version of subparagraph (d) had the advantage of taking account of the situation of unmarried women without using the words "unmarried mothers". She was accordingly able to support the proposal.

101. Ms. SANDLUND (Sweden) said she welcomed the Cuban representative's proposal, which avoided the problems raised by the original text.

102. The CHAIRMAN put to the vote subparagraph (d) as amended by the representatives of Cuba and the United Kingdom.

103. Subparagraph (d), as amended by the representatives of Cuba and the United Kingdom, was adopted by 21 votes to none, with 4 abstentions.

104. Miss TYABJI (India) proposed that the following new subparagraph should be inserted between subparagraphs (c) and (d): "The equal right of men and women to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise this right".

105. Mrs. SANDLUND (Sweden) supported the Indian representative's proposal. The World Population Conference had adopted a similar text at Bucharest and the same ideas were expressed in paragraph 136 of the World Plan of Action for Implementation of the Objectives of the International Women's Year.

106. Mrs. HUSSEIN (Egypt) said she approved the text proposed by the representative of India, which filled a gap in the Declaration on the Elimination of Discrimination against Women.

107. Mrs. HÖRZ (German Democratic Republic), Mrs. DAHLERUP (Denmark), Mrs. SALYO (Indonesia), Mr. EHSASSI (Iran), Begum FARIDI (Pakistan), Princess PURACHATRA (Thailand), Mrs. BRASDEFER (Mexico), Mrs. MAKA (Guinea) and Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) supported the draft text submitted by the Indian representative.

108. The CHAIRMAN said that in the absence of objections she would consider that the Commission wished to adopt the new subparagraph proposed by India.

109. The new subparagraph proposed by India, for insertion in article 16 between subparagraphs (c) and (d) of the text previously adopted, was adopted by consensus.

Subparagraph (e)

110. Mrs. COENE (Belgium) drew the Commission's attention to the text for subparagraph (e) proposed by Belgium in document E/CN.6/591/Add.1.

111. Mrs. SALYO (Indonesia) said that she preferred the original text of subparagraph (e) (E/CN.6/591).

112. Mrs. HUSSEIN (Egypt) thought that the Belgian proposal improved the original text, because there were various forms of adoption.

113. Mrs. FERRER GOMEZ (Cuba) said that she supported the Belgian text.

114. Mrs. COCKROFT (United Kingdom) said that she feared that the phrase "any form of child adoption" in the Belgian text would lead to abuse, because it did not even specify "legal form". She preferred the original text, to which she proposed that the word "responsibilities" should be added.

115. Begum FARIDI (Pakistan) said that, for religious reasons and also for the reasons referred to by the United Kingdom representative, she could not accept the text proposed by Belgium.

116. Mrs. COENE (Belgium) explained that, in French, adoption was a legal notion. There was no danger therefore that the words "any form of adoption" would give rise to misunderstanding.

117. Mrs. BOKOR-SZEGO (Hungary) said she considered that the words "any form of child adoption" were too vague.

118. Mrs. BRASDEFER (Mexico) said that, for the same reasons as the United Kingdom representative, she preferred the original text.

119. Mrs. SALYO (Indonesia) proposed that the words "any form of adoption" should be replaced by the words "any legal form of adoption".

120. Miss TYABJI (India) said that she preferred the original text.

121. Mrs. DAHLERUP (Denmark) said that she preferred the original text but accepted the amendment proposed by Indonesia.

122. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said that, for the reasons already given by other delegations, the words "any form of" should be omitted.

123. Mrs. COENE (Belgium) said that she would accept the original text if it was clearly explained in the summary record that adoption meant any legal form of adoption. She hoped, too, that the words "and responsibilities" would be added after the words "equal rights".

124. Mrs. SALYO (Indonesia) withdrew her amendment.

125. The CHAIRMAN said that in the absence of objections she would consider that the Commission wished to adopt subparagraph (e) of the original text, as with the amendment just proposed by the Belgian representative.

126. Subparagraph (e), as amended, was adopted by consensus.

Subparagraph (f)

127. Mrs. COCKROFT (United Kingdom) proposed that in order to clarify the English text, the word "a" should be inserted before the word "profession" and the word "an" before the word "occupation".

128. Mrs. COENE (Belgium) drew the Commission's attention to the text for subparagraph (f) proposed by Belgium (E/CN.6/591/Add.1).

129. Mrs. HIRLEMANN (France) said that she supported the Belgian text, which was much more precise than the original wording.

130. Miss TYABJI (India) said that she preferred the original text, partly because it was more concise and partly because the question of "neither spouse having a predominant voice" could not form the subject of a legal enactment.

131. Mrs. HUSSEIN (Egypt) said she supported the Indian representative but considered that the words "the equality of spouses in their personal relationships" improved the original text.

132. Ms. LAMINA (Madagascar) said that she supported the Belgian text but hoped that the words "neither spouse having a predominant voice in the matter" would be deleted.

133. Mrs. SALYO (Indonesia) said that she preferred the original text. The words "equality of spouses in their personal relationships" could, however, be replaced by the words "equal rights of men and women with regard to their personal status".

134. Miss ST. CLAIR (Secretary of the Commission) pointed out that the words "y domicilio" should be deleted from the Spanish text of subparagraph (f).

The meeting rose at 1 p.m.