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COMMISSION ON THE STATUS OF WOMEN

Twenty-sixth Session

SUMMARY RECORD OF THE 651st MEETING

held at the Palais des Nations, Geneva,
on Monday, 27 September 1976, at 2.45 p.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/NGO/259)

Article 16, paragraph 1(f)

1. The CHAIRMAN invited the Commission to consider article 16, paragraph 1(f) (E/CN.6/591), and the amendment thereto proposed by Belgium (E/CN.6/591/Add.1).
2. Ms. SANDLUND (Sweden) and Mrs. DAHLERUP (Denmark) said that they preferred the original text of paragraph 1(f).
3. Mrs. COENE (Belgium) said that the words "the equal personal rights of men and women" in the original text had no meaning in French. The wording proposed by her delegation, namely, "the equality of spouses in their personal relationships as regards their rights and obligations" did not change paragraph 1(f) in any way, but did make its meaning clearer.
4. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said that her delegation supported the original text of paragraph 1(f), which specified the personal rights of men and women and, in particular, the right to chose a profession. The amendment proposed by Belgium gave a much narrower interpretation of how the equality of spouses should be provided for in law.
5. Mrs. CADIEUX (Canada) proposed that, in order to bring the wording of paragraph 1(f) into line with that of the other sub-paragraphs and, in particular, with that of sub-paragraph (e), the words "Provision in law for" should be replaced by the words "Recognition of".
6. Miss TYABJI (India) supported that amendment. In her view, the Belgian delegation's problem with the original text of paragraph 1(f) appeared to be one of translation into French, for the English seemed clear enough.
7. Mrs. COENE (Belgium) proposed that the original text of paragraph 1(f) should be amended to read: "Recognition of the equality of spouses in their personal relationships as regards their rights, including the right to choose a family name, profession and occupation".
8. Mrs. COCKCROFT (United Kingdom) said that her delegation could not support the amendment just proposed by the representative of Belgium because it said nothing more or less than the original text.
9. Ms. ATHANASAKOS (United States of America) agreed. Her delegation supported the original text of paragraph 1(f), although it would not object to the amendment proposed by Canada.
10. Mrs. DAHLERUP (Denmark) said that her delegation was also in favour of the original text, but could support the Canadian representative's amendment.

11. Ms. LORANGER (Canada) suggested that the Belgian delegation's difficulties with the original text might have arisen because the English text referred to the equal personal rights of "men and women", while the French text referred to the equal personal rights of "husbands and wives". Her delegation was of the opinion that the Commission should base its discussions on the English text of the original paragraph 1 (f) because the right to choose a profession or an occupation was one which should be enjoyed by all persons and not only by husbands and wives.
12. Mrs. HIRLEMANN (France) pointed out that if the Commission followed that procedure and used the English text, it would have a problem with the words "the right to choose a family name", because that choice was usually made by married couples.
13. The meeting was suspended at 3.05 p.m. and resumed at 3.15 p.m.
14. The CHAIRMAN said that the Commission seemed to have agreed to use the wording contained in the French text of paragraph 1 (f), namely, "the equal personal rights of husbands and wives".
15. Mrs. COENE (Belgium) said that her delegation could accept the Canadian proposal to replace the words "Provision in law for" by the words "Recognition of" at the beginning of the original text of paragraph 1 (f).
16. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) pointed out that adoption of that proposal would deprive paragraph 1 (f) of all meaning. Her delegation was therefore in favour of retaining the words "Provision in law for" so that husbands could not prevent their wives from exercising their rights.
17. Mrs. HUSSEIN (Egypt) said that her delegation agreed that the words "Provision in law for" should be retained.
18. Miss TYABJI (India) drew the attention of the representatives of the Soviet Union and Egypt to the wording of the introductory part of paragraph 1, which made the words "Provision in law for" at the beginning of paragraph 1 (f) unnecessary.
19. Ms. LORANGER (Canada) emphasized that her delegation's amendment was designed to bring the wording of paragraph 1 (f) into line with that of the other sub-paragraphs.
20. Mrs. HUSSEIN (Egypt) proposed that the Commission should vote on the Canadian representative's amendment to paragraph 1 (f).
21. The CHAIRMAN invited the Commission to vote on the Canadian amendment.
22. The amendment was adopted by 11 votes to 8, with 1 abstention.

23. The CHAIRMAN invited the Commission to vote on the text of paragraph 1 (f), as a whole, as amended.

24. The text of paragraph 1 (f), as a whole, as amended, was adopted by 17 votes to none, with 3 abstentions.

Article 16, paragraph 1 (g)

25. Mrs. COENE (Belgium) drew attention to the amendment to paragraph 1 (g) proposed by her delegation in document E/CN.6/591/Add.1.

26. Mrs. HUSSEIN (Egypt) said she was of the opinion that the original text of paragraph 1 (g) had been covered by the provisions of article 15, paragraph 2. The Commission could not, of course, go back on the decision it had taken with regard to article 15, paragraph 2, but it could decide to delete article 16, paragraph 1 (g), which went into much greater detail than article 15, paragraph 2.

27. Ms. SANDLUND (Sweden) said she did not agree with the view expressed by the representative of Egypt. It was perfectly possible for the provision contained in article 16, paragraph 1 (g), to elaborate on the provisions of article 15, paragraph 2. Article 16, paragraph 1 (g), should therefore not be deleted.

28. Mrs. DAHLERUP (Denmark) agreed.

29. Mrs. COCKCROFT (United Kingdom) said that her delegation was in favour of retaining the first part of article 16, paragraph 1 (g), and of deleting the words in square brackets at the end of the sentence.

30. Mrs. COENE (Belgium) said that, as article 15, paragraph 2, referred, inter alia, to the equal rights of women to conclude contracts and administer property, whereas article 16, paragraph 1 (g), referred to the equal rights of men and women in respect of the ownership, use and disposition of property, article 16, paragraph 1 (g) was not covered by the provisions of article 15, paragraph 2, and should not be deleted.

31. Mrs. TALLAWY (Egypt) requested the Secretary to read out the text of article 15, paragraph 2, as adopted by the Commission, in order to ensure that its subject matter was not duplicated by the sub-paragraph under discussion.

32. Miss ST. CLAIRE (Secretary of the Commission) explained that the final text of article 15, paragraph 2, was an amalgam of the proposal by Belgium contained in document E/CN.6/591/Add.1 and that by Sweden contained in document E/CN.6/591, annex I. It read:

"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."

33. Mrs. HUSSEIN (Egypt) felt that article 15, paragraph 2, duplicated the first part of article 16, paragraph 1 (g). What was new in the latter was the reference to the régime of conjugal property, which was a matter specific to the marriage relationship, whereas article 15, paragraph 2, referred generally to the right to administer property equally.
34. Miss TYABJI (India) submitted that article 15, paragraph 2, concerned legal capacity and the sub-paragraph under discussion ownership rights, which was an entirely different question; in her view the entire sub-paragraph should be retained. She proposed that the Commission should close its discussion of the sub-paragraph and put it to the vote.
35. The CHAIRMAN invited the Commission to vote on the Indian representative's proposal.
36. The proposal was adopted by 22 votes to none, with 1 abstention.
37. The CHAIRMAN invited the Commission to vote on the Belgian amendment to article 16, paragraph 1 (g) (E/CN.6/591/Add.1).
38. The amendment was adopted by 11 votes to 6, with 7 abstentions.

Article 16, paragraph 2

39. Mrs. OSCHINSKY (Belgium) explained that the amendment proposed by her Government (E/CN.6/591/Add.1) was motivated by the fact that in many countries the act of betrothal had legal significance.
40. Miss TYABJI (India) said that in principle her delegation supported the Belgium proposal although it had reservations concerning the last part, since the registration of marriages was not compulsory in India.
41. Begum FARIDI (Pakistan) said that the registration of marriages was compulsory in Pakistan, where there was also a minimum age for marriage. There was, however, no minimum age for betrothal, since a betrothal had no legal significance and could be rejected by the girl concerned when, for example, she reached puberty. The Belgian amendment confused the issue, and her delegation was strongly in favour of the original text.
42. Mrs. HUSSEIN (Egypt) said that, although betrothal as a ritual did not exist in Egypt, her delegation supported the Belgian amendment, on the assumption that the provision concerning a minimum age for betrothal would apply only where it was justified by local custom.
43. Mrs. HUTAR (United States of America) proposed that the term "young girls" should be amended to read "young children".
44. Mrs. COCKCROFT (United Kingdom) proposed that, in view of the wide range of ages at which puberty commenced and the dangers for both mother and child which arose from pregnancy in pubescent but otherwise immature girls, the words "before puberty" should be deleted. Subject to that reservation, she supported the Belgian amendment.

45. Ms. BOKOR-SZEGO (Hungary) said that, in drafting article 16, paragraph 2, the Commission should take account of the relevant provisions of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (General Assembly resolution 1763 (XVII)), and the related Recommendation (General Assembly resolution 2018 (XX)). She had some doubts concerning the Belgian proposal, inasmuch as the reference to legislation might oblige States in which betrothal had no legal significance to adopt legislation regulating that event.

46. Mrs. BRUCE (Assistant Director, Centre for Social Development and Humanitarian Affairs) said that the original text of the paragraph was identical with that of article 6, paragraph 3, of the Declaration on the Elimination of Discrimination against Women (General Assembly resolution 2263 (XXII)). The relevant provisions of the instruments to which the Hungarian representative had referred were article 1, paragraph 1, and article 2 in the case of the Convention, and Principle II in the case of the Recommendation. None dealt specifically with the point covered in the paragraph under discussion, although Principle II of the Recommendation did state that the minimum age for marriage should be 15. She recalled in that respect that recent research by WHO had shown that pregnancy could be dangerous even in girls 18 years of age.

47. Mrs. HUTAR (United States of America) suggested that the potential problems to which various speakers had referred could be avoided if the first part of the original text was deleted, so that the paragraph would begin with the words "Effective action".

48. Mrs. COCKCROFT (United Kingdom), Miss TYABJI (India), Mr. EHSASSI (Iran), Mrs. CADIEUX (Canada), and Mrs. SALYO (Indonesia) supported that suggestion.

49. Ms. BOKOR-SZEGO (Hungary) said that, in the light of the Assistant Director's statement, she felt it was essential to maintain the original text of article 16, paragraph 2, in its entirety, as adoption of the United States suggestion would not be an improvement on the provisions of the Convention and Recommendation on Consent to Marriage. The Commission should bear in mind the very great importance that the original text of the paragraph under discussion could have for the developing countries.

50. Mrs. HUSSEIN (Egypt) supported the view of the Hungarian representative, and urged that the paragraph should also make it clear that child marriages were prohibited.

51. Mrs. HUTAR (United States of America) suggested that the concern expressed by the representatives of Hungary and Egypt could be allayed if her proposal to shorten the original text was amended so that the paragraph began: "To eliminate child marriages, effective action ...".

52. Mrs. ROMANOVICH (Bylorussian Soviet Socialist Republic) said her delegation favoured retention of the entire original text, particularly since it was identical with a paragraph in the Declaration on the Elimination of Discrimination against Women.

53. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) also favoured retention of the original text. Adoption of the United States suggestion would mean that children in countries where betrothal had legal significance would be at the mercy of unscrupulous parents.

54. Mrs. HUTAR (United States of America) proposed that the original text should be retained but its first line amended to read: "Betrothal and marriage of a child shall be ...".
55. Begum FARIDI (Pakistan) said that in the tropical countries, where puberty often occurred at an early age, it was of the greatest importance to set a minimum legal age for marriage. Pakistan had had great difficulty in introducing such a minimum and now wished to raise it. Accordingly, she proposed the insertion of the word "suitable" between the words "a" and "minimum age for marriage".
56. Miss TYABJI (India) supported that proposal.
57. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) pointed out that to prohibit the betrothal and marriage only of "children" would not be enough, since adolescents might also be insufficiently mature to assume parental responsibilities.
58. Mrs. HUSSEIN (Egypt) agreed, and suggested that the paragraph should state that legislative measures should be taken to specify a minimum age for marriage and to prohibit marriage below that age.
59. Begum FARIDI (Pakistan) said that she had no objection to the replacement of the word "suitable" by "specified".
60. Mrs. COCKCROFT (United Kingdom) recalled that the World Plan of Action contained the following passage "A minimum age for marriage should be fixed by law and be such as to provide a sufficient period of education for girls and boys, but particularly girls, to enable them to complete their education and develop their potentialities prior to marriage. Official registration of marriages should be made compulsory." She appreciated that the passage did not mention child marriage, but it did refer to education, particularly for girls. The issue was a very important one, and something along those lines might be inserted into the article.
61. Mrs. DEVAUD (France) felt that the Egyptian representative's proposal met the point raised by the United Kingdom representative.
62. The meeting was suspended at 4.45 p.m. and resumed at 5.05 p.m.
63. Mrs. HUSSEIN (Egypt) proposed the following text which, in her view, reflected an advanced position with regard to the minimum age for marriage: "Effective measures, including legislation, shall be taken to specify a minimum age for marriage, in any case not less than sixteen years for girls, and to prohibit strictly child betrothal and marriage or betrothal and marriage of young girls below the legal minimum age, and to make the registration in an official registry compulsory."
64. Mrs. LAMINA (Madagascar) felt it might be unrealistic to try to set a minimum age for marriage.

65. Mrs. GUYE (Senegal) said that, although marriage under the age of seventeen was prohibited in her country, her delegation realized that each State had different views on the subject and should be free to promulgate the legislation it considered to be most suitable.
66. Mrs. HUTAR (United States of America) wondered whether it would be possible to delete "for girls" from the Egyptian proposal.
67. Mrs. HUSSAIN (Egypt) said that the concern expressed by delegations from some of the developing countries with regard to her amendment might be allayed if the reference to a specific age were dropped.
68. Miss TYABJI (India) proposed the closure of the debate.
69. The CHAIRMAN invited the Commission to vote on the Indian representative's proposal.
70. The proposal was adopted by 20 votes to 1, with no abstentions.
71. Mrs. HUSSEIN (Egypt) withdrew her amendment.
72. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics), noting that the United States amendment failed to provide protection for certain categories of children, proposed that the Commission should vote separately on the words "young children" and "young girls", because she feared that the idea of prohibiting the marriage of young girls might be lost.
73. Mrs. BRUCE (Assistant Director, Centre for Social Development and Humanitarian Affairs) said that, in accordance with rule 60 of the rules of procedure of the functional commissions of the Council the United States proposal would be voted on first. If it was adopted, paragraph 2, as amended, would then be put to the vote. If the United States proposal was rejected, the original text would be put to the vote.
74. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics), speaking on a point of order, drew attention to rule 61 of the rules of procedure, and said that both texts should be put to the vote.
75. Mrs. TALLAWY (Egypt) said that the Commission should vote on the United States amendment and then on the original text without the words "before puberty".
76. Mrs. COCKCROFT (United Kingdom) pointed out that her delegation had made an amendment to the original text. If the United States amendment was rejected her delegation would like its amendment voted on next.
77. Mrs. BRUCE (Assistant Director, Centre for Social Development and Humanitarian Affairs) pointed out that according to the second paragraph of rule 60 of the rules of procedure, a motion was considered an amendment to a proposal if it added to, deleted from or revised that proposal; rule 61 dealt with proposals, which was something different. The Commission had before it a proposal and two amendments to that proposal. The United States amendment consisted of replacing "child marriage and betrothal of young girls before puberty by the words "betrothal and marriage of a child". If that

amendment was adopted, the Commission would vote on the paragraph as amended. If the United States amendment was rejected, the Commission would vote on the United Kingdom amendment to delete the words "before puberty". If that amendment was rejected, the original text would be put to the vote.

78. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) considered that rule 60 referred to amendments but that rule 61 referred to a single text with several alternatives. She felt that the Commission should vote in accordance with rule 61.
79. Mr. EHSASSI (Iran) wondered whether, in order to expedite the Commission's work, the United States delegation would consider withdrawing its amendment.
80. Mrs. HUTAR (United States of America) felt that the changes suggested by her delegation were fundamental to its acceptance of paragraph 2, since it believed that the provisions of that paragraph should apply equally to boys and girls.
81. The CHAIRMAN invited the Commission to vote on the United States amendment.
82. The United States amendment was adopted by 12 votes to 6, with 5 abstentions.
83. The CHAIRMAN invited the Commission to vote on paragraph 2 as a whole, as amended.
84. Paragraph 2 as a whole, as amended, was adopted by 15 votes to none, with 6 abstentions.
85. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said she had abstained from the vote because she felt that rule 61 and not rule 60, of the rules of procedure should have been applied.
86. Miss TYABJI (India) said that, although India did not yet have a marriage-registration system, it had accepted that system in principle and hoped to introduce it in the not too distant future. For that reason, her delegation had voted in favour of the United States amendment.

Article 16, paragraph 3

87. Mrs. FERRER GOMEZ (Cuba) proposed the insertion of the words "legal and" before the words "social protection".
88. Mrs. CADIEUX (Canada) proposed that the word "mothers" should be replaced by the word "parents".
89. Mrs. COCKCROFT (United Kingdom) said it would be more correct English to use the term "unmarried" instead of "unwed".

90. Mrs. HUSSEIN (Egypt) said that her delegation, while not opposed to the elimination of discrimination against unmarried mothers, felt that the issue was a very delicate one which fell within the cultural, educational and social domain rather than within that of the law. A provision of that nature would make many countries reluctant to ratify the convention, particularly if the word "mothers" was replaced by "parents", as proposed by the delegation of Canada. It would be wiser, in her view, to delete paragraph 3 altogether.
91. Ms. SANDLUND (Sweden) supported the proposals made by the representatives of Cuba and Canada.
92. Mrs. SALYO (Indonesia) said that the question of unmarried mothers was a very sensitive issue in Indonesia, and hoped that the Commission would not take a decision which would prejudice opinion in her country.
93. Begum FARIDI (Pakistan) said she shared the concern expressed by the representatives of Egypt and Indonesia; the adoption of paragraph 3 might well delay the ratification of the convention.
94. Mrs. HIRLEMANN (France) said that, on the whole, French legislation was consistent with the principle of equal rights for all children, particularly since the adoption of the Filiation Law of 3 January 1972 laying down the general rule that all children, whether born in or out of wedlock, should have equal rights and responsibilities except in cases of succession in which the interests of adulterine children conflicted with those of legitimate children. Since, however, the law in question had been adopted only recently, there were no immediate plans to revise that exception, a situation which led her delegation to adopt a guarded attitude towards paragraph 3.
95. Mrs. OSCHINSKY (Belgium) said that although Belgium had not yet amended the provisions of its Civil Code relating to children born out of wedlock, it planned to do so and therefore had no objection to the text before the Commission. However, in view of the concern expressed by several delegations that the adoption of a provision of the kind under consideration might raise an obstacle to the ratification of the convention, it might be appropriate to delete paragraph 3, especially as it related not so much to discrimination against women as to discrimination against children.
96. Miss TYABJI (India) agreed that the provision under consideration was more concerned with discrimination against children than with discrimination against unmarried mothers. Although her delegation had no objection to paragraph 3, the Commission should endeavour to make the convention one to which as many countries as possible could accede, and it might therefore be wise to delete that provision.
97. Mrs. NIKOLAEVA (Union of Soviet Socialist Republics) said that the deletion of paragraph 3 might prejudice the position of children born out of wedlock, who were in no way responsible for the circumstances of their birth.

98. Mrs. HUSSEIN (Egypt) said that the deletion of paragraph 3 would not denote any lack of concern for children born out of wedlock, who were already covered by other provisions of the draft convention as well as by the Declaration of the Rights of the Child.

99. The CHAIRMAN invited the Commission to vote on the Egyptian proposal to delete paragraph 3.

100. There were 10 votes in favour, 10 against, and 3 abstentions. The proposal was not adopted.

The meeting rose at 6.20 p.m.