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Chairman: Mrs. Mara RADIĆ (Yugoslavia).

## AGENDA ITEM 53

Draft Declaration on the Elimination of Discrimination against Women (continued) (A/6678 and Corr.1, A/6703 and Corr.1, chap. XII, sect. XII; E/4316, A/C.3/L.1438, A/C.3/L.1439/Rev.1, A/C.3/L.1440/Rev.1, A/C.3/L.1441/Rev.1, A/C.3/L.1443/Rev.1, A/C.3/L.1444, A/C.3/L.1445/Rev.1, A/C.3/L.1446, A/C.3/L.1447, A/C.3/L.1449/Rev.1, A/C.3/L.1450, A/C.3/L.1451)

### ARTICLE 1

1. The CHAIRMAN invited the Committee to take up article 1 of the draft Declaration, to which Guatemala had submitted an amendment in document A/C.3/L.1445/Rev.1.

2. Mrs. MANTZOULINOS (Greece) said that the draft Declaration was satisfactory as it stood and that she would vote only for amendments which would distinctly improve the text. It was regrettable that article 1 did not give a definition of the word "discrimination" for, with the exception of the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, which was to be followed by a convention, all the international instruments concerning discrimination proposed a definition of the term; that was true, in particular, of the UNESCO Convention against Discrimination in Education and the ILO Convention Concerning Discrimination in Respect of Employment and Occupation. She considered the Guatemalan amendment acceptable, as it accorded with the title of the Declaration.

3. Mr. A. A. MOHAMMED (Nigeria) proposed that a separate vote should be taken on the words "as it does" in the English text of the Guatemalan amendment.

4. Mr. SANCHEZ GAVITO (Mexico) pointed out that the words in question had no equivalent in the Spanish text. He accordingly proposed that the Committee should vote on the amendment itself, which would replace the words "Discrimination based on sex" by the words "Discrimination against women".

5. Mr. PAOLINI (France) observed that there was no equivalent of the three words in question in the

French text either. He suggested that the Nigerian representative should propose an oral sub-amendment to the Guatemalan amendment, instead of a separate vote.

6. Mrs. EMBAREK WARZAZI (Morocco) supported the French representative's suggestion.

7. Mrs. SIVOLOB (Ukrainian Soviet Socialist Republic) said that the controversial words were missing from the Russian text also.

8. Mr. SCHREIBER (Secretariat) said that the difficulty was not due to the Guatemalan amendment itself but to the manner in which it was worded in English. The problem was thus merely one of translation and it should not hold up the work of the Committee, which could vote on the Guatemalan amendment and leave it to the Secretariat to make the texts uniform.

9. Mr. VERMEYLEN (Belgium) agreed with Mr. Schreiber and proposed that the vote on article 1 should be postponed until a properly drafted text was available in all languages.

10. Mr. A. A. MOHAMMED (Nigeria) proposed that the words "as it does" should simply be deleted from the English text since they did not exist in the other texts.

11. Mrs. HARRIS (United States of America) said that the words in question were important and their deletion would change the meaning of the sentence. They meant that any discrimination against women denied or limited equality of rights between men and women. Their deletion would therefore imply that only those forms of discrimination which denied or limited equality of rights between men and women were fundamentally unjust; that would be the same as asserting that there were some forms of discrimination which were not fundamentally unjust. The deletion of the words "as it does" would thus limit the scope of the article.

12. Mr. GUERMAZI (Tunisia) proposed that the words "ayant pour effet" in the French text should be replaced by the word "consistant".

13. Mr. QUADRI (Argentina) pointed out that the Guatemalan amendment had been drawn up in Spanish and that the English text added a shade of meaning which was not in the original. He accordingly proposed that the English text should be brought into line with the Spanish text.

14. Mr. PAOLINI (France) observed that the Guatemalan amendment did not affect the objection raised by the Nigerian representative to the words "as it does", as those words were actually taken from article 1 of the draft itself. The Guatemalan amendment

would simply replace the words "Discrimination based on sex" by the words "Discrimination against women", and he proposed that the Committee should vote on that amendment.

15. Mr. ABOUL-NASR (United Arab Republic) agreed with the French representative and formally proposed that the words "Discrimination against women" in the Guatemalan amendment should be put to the vote.

16. Mr. PAOLINI (France) said he could not support the Guatemalan amendment. He preferred the text of the draft Declaration which, in denouncing discrimination based on sex in article 1, restated in broad terms a principle already contained in the Universal Declaration of Human Rights—that of the equality of rights of all human beings, regardless of sex. It was true that discrimination based on sex was practised chiefly against women and that it was discrimination against women that the draft Declaration dealt with; and it was discrimination against women that was in question in all the other more specific articles dealing with particular sectors of political, economic, cultural and social life. However, article 1 was a declaration of principle and the principle in question must be enunciated in the most general terms possible.

17. Mrs. SIPILA (Finland) reminded the Committee that article 1 of the draft referred to discrimination based on sex in order to restate the principle of the Universal Declaration of Human Rights which underlay the draft Declaration under consideration.

18. Mr. LAVALLE (Guatemala) said that the text he had proposed was more precise and defined the actual subject of the Declaration. Moreover, however, exceptional it might be, discrimination against men might exist in some countries with a matriarchal system.

19. The CHAIRMAN asked the representative of Finland, in her capacity as Chairman of the Commission on the Status of Women, to assist the Secretariat in drafting a text of article 1 that would be acceptable in all versions. She suspended the discussion on article 1 and invited the Committee to take up article 2.

## ARTICLE 2

20. The CHAIRMAN invited members to express their views on the amendments submitted to article 2.

21. Mr. PAREJA (Peru) said that in view of the comments that had been made he had decided to withdraw his amendment which would delete the word "customs" (A/C.3/L.1439/Rev.1).

22. Mr. SANON (Upper Volta) said that he had been in favour of the amendment submitted by the Byelorussian Soviet Socialist Republic in document A/C.3/L.1442 which had been withdrawn by its sponsor, and he would like to sponsor it himself.

23. Mr. PAOLINI (France) said with reference to the amendments in document A/C.3/L.1440/Rev.1 that in order to remove the difficulty created by the word "abolish" the sponsors of that amendment proposed the deletion of the word "customs" and the words "and practices"; however, it was not those words which caused some delegations difficulty, but the verb "abolish". His own delegation was opposed to the

deletion of the word "customs", since it considered that while it was relatively easy to promulgate equalitarian laws, it was much more difficult to put them into practice and hence to eliminate usages and customs.

24. The other solution would be to delete the word "abolish". It was his understanding that some delegations had difficulty in accepting that word and it was true, at least in French, that the word was not altogether correct from the legal standpoint, since one spoke of rescinding a law, not of abolishing it; nevertheless, the difficulty was only an apparent one. In reality, the object in the present case was to abolish discrimination and technically the word "abolish" could apply to all institutions, whatever their legal form—customary or written. But it was essential, as the Iranian representative had said, to speak of abolition, since that was the very object of the proposed Declaration. Moreover, the term had already been used for the abolition of slavery. His delegation accordingly urged the retention of the existing text of article 2.

25. Mrs. STEVENSON (Liberia) said she regretted that that article had been the cause of so much discussion and so many amendments. The word "abolish" applied, after all, only to the customs, laws and practices which were discriminatory against women, and her delegation preferred the word "abolish" to the word "alter". The amendment submitted by Nigeria and Senegal (A/C.3/L.1440/Rev.1) seemed to her to weaken the force of the text. It should be the Committee's concern above all to draft a text that would be broad enough in scope. As to the amendment proposed by New Zealand (A/C.3/L.1444), her delegation was afraid that the words "as appropriate" would make it easier for Governments wanting to do so to evade their responsibilities. The present text of the draft offered more of a safeguard in that respect.

26. Mrs. HARRIS (United States of America) said that she supported the comments made by the representatives of France and Liberia regarding the words "abolish" and "customs". It was not true to say that only laws could be abolished. Customs could and had been abolished; a fact of such general acceptance that Webster's dictionary, referred to abolishing customs. Furthermore, at a previous meeting, the representative of Gabon had spoken of the abolition by law of certain customs such as the sale of girls to their future husbands, and, in so far as the United States was concerned, the case could also be cited of the custom of multiple wives which had been abolished by the force of law. Concubinage, child marriage, foot binding, child sacrificing, duelling and vendetta had been abolished by law in some countries.

27. She accordingly appealed to the sponsors of the amendments calling for the deletion of the word "abolish" to re-examine their position and to withdraw their amendments. Although her delegation believed that the wording of article 2 ought to be left as it stood, it was prepared to accept the amendment submitted by the Democratic Republic of the Congo (A/C.3/L.1450), for that amendment seemed preferable to the others. Her delegation likewise had no objection to the New Zealand amendment.

28. Mr. PAREJA (Peru) said, with regard to the explanation given by the representative of France concerning the use of the words "abolish" and "rescind" in French, that in Spanish the word "abolish" had the meaning of suppression effected within a very short time and thus was fully applicable to a law. Its use, on the other hand, with reference to customs could not readily be accepted because customs could not be eliminated overnight.

29. Mr. LUSINGA (Democratic Republic of the Congo) said that he objected to the replacement of the word "abolish" by the word "alter", for the latter seemed to him to be too weak. As a solution to the problem raised by the use of the word "abolish" as applied to customs, his delegation had submitted an amendment (A/C.3/L.1450) whereby the word "abolish" would be replaced by the word "prohibit" when the reference was to customs. While he hoped that that amendment would enable the problem to be solved, he was ready to support any other suggestion that would be acceptable to the majority of the Committee.

30. Mr. VERMEYLEN (Belgium) said that no attempt should be made to justify a text that was not found to be satisfactory; it was preferable to say exactly what one wanted to say, namely, in the present instance, that discrimination should be abolished. For that reason, and with a view also to reconciling the opposing views, he formally proposed that the first part of the introductory paragraph of article 2 should be replaced by the following words: "All appropriate measures shall be taken to abolish any discrimination of a legal, regulatory or customary nature against women", the rest of the text remaining unchanged.

31. Mr. ABOUL-NASR (United Arab Republic) said that the word "abolish" did not seem to be the most appropriate term for such an important text and that he therefore preferred the use of the word "alter" or "change". The word "abolish" implied, after all, a sudden change, whereas what the authors of the draft Declaration had in mind was a process of evolution rather than a revolution. The elimination of certain customs demanded more than a decision to abolish them; other measures, such as the generalization of education, must be taken. What was more, customs varied from country to country, and a custom regarded as undesirable in one place might be regarded differently somewhere else. It was consequently impossible to generalize or to use words that were too categorical. His delegation would therefore vote against the retention of the word "abolish".

32. Mr. SY (Senegal) said that in the amendment proposed by Nigeria and Senegal (A/C.3/L.1440/Rev.1) the word "abolish" had been retained for laws and regulations. Although some representatives had given examples of practices abolished by laws, it was his impression, to take the case of the United States, that the laws which had been passed regarding civil rights had failed to abolish all discriminatory practices. The purpose of the amendment submitted by Nigeria and Senegal was to clarify the text without weakening it, that was to say, to refer in article 2 to all measures based on laws and regulations, and in article 3 to all the other forms of discrimination—prejudice, customs, practices and the like—which could

only be eliminated gradually through a process of evolution.

33. Mr. UY (Philippines) said that while discriminatory customs could admittedly not be abolished overnight, most of the objections to the wording "to abolish... customs" could not stand up in view of the fact that "appropriate measures" were to be taken, the implication being that the elimination of customs could be carried out gradually. Although his delegation preferred the initial version of the text, it could, in view of the difficulties encountered by certain delegations, accept the amendment submitted by the Democratic Republic of the Congo.

34. With regard to the New Zealand amendment, he believed that the phrase "as appropriate" considerably weakened the text by providing a loop-hole to States which did not want to guarantee the equality of the two sexes. As the difficulties of States not having a written constitution were solved by the fact that the New Zealand amendment offered two possibilities, the words "as appropriate" served no purpose, and he asked that they should be put to the vote separately. His delegation approved of the amendment proposed by Nigeria and Senegal to article 2, sub-paragraph (b).

35. Mrs. SIPILA (Finland) recalled the process which had culminated in the text of article 2 which the Committee was at present considering. The first draft, which had been submitted to the Commission on the Status of Women at its eighteenth session in 1965, had been based on a text proposed by Poland; there had been no reference in it to customs, and the word "abolish" had not been used. At its nineteenth session, the Commission had examined the text drawn up by the Drafting Committee which had been set up at the previous session. The Commission had had before it an amendment submitted by Ghana, Liberia, Nepal and the United Kingdom in which the following wording had been proposed:

"All existing laws, customs, regulations and practices which are or tend to be discriminatory against women should be repealed and replaced by adequate and effective measures for the maintenance and protection of equal rights of men and women."

In addition, the following wording had been proposed in a Polish amendment:

"All States shall take effective measures to abolish existing laws, regulations and practices which are discriminatory against women, and to establish adequate legal protection for equal rights of men and women."

An oral sub-amendment was introduced which had sought to have the words "All States shall take effective measures" replaced by "All appropriate measures shall be taken". The representative of Guinea had suggested that the word "customs" should be inserted after the word "laws" in the Polish amendment. It was the latter text as amended which had been adopted, and there had been no further change in it since 1966. At the Commission's twentieth session, an amendment submitted by the Drafting Committee and calling for the replacement of the word "abolish" by the words "modify or change" had been rejected by 15 votes to 14, with 2 abstentions.

36. Her delegation would vote in favour of retaining the words "to abolish existing laws, customs, regulations and practices", for that was the only text which had been approved by the majority of the delegations represented in the Commission on the Status of Women. With regard to the New Zealand amendment, the Finnish delegation preferred the initial text as being more forceful.

37. Mr. RIOS (Panama) said that the basic text, which was the culmination of several years' work, seemed to him to be much better than the various amendments which had been proposed. The words "to abolish existing laws, customs, regulations and practices" were the very ones which ought to be used. It was true that customs represented the heritage of past centuries and were deeply rooted. It was also true that they could not be immediately abolished. However, the abolition of the laws in which the customs were enshrined would be a first step in the right direction and would foster a change in attitude that would lead to the gradual disappearance of the customs.

38. His delegation would have been able to accept the initial text. Among all the amendments which had been proposed, only that of Nigeria and Senegal (A/C.3/L.1440/Rev.1) met with its approval. In order to bring the discussion to a close, he proposed that in the amendment in question the word "abolish" should be replaced by the words "repeal, eliminate or replace".

39. Mrs. EMBAREK WARZAZI (Morocco) said that the Moroccan delegation was in favour of retaining article 2 in its initial form. She pointed out that the Muslim countries had certain laws which derived from the Koran and were extraneous to the international organizations' sphere of influence. To anticipate misinterpretation, she denied, in any case, that polygamy was a vicious practice, as non-Muslims alleged. Under the provisions of the code governing personal status, the husband was not permitted to take a second wife without the first wife's consent; while polygamy had the great advantage of ensuring that every child had a home. Outside the Muslim countries, on the contrary, family bonds were being loosened, with an increase in the proportion of illegitimate children who later became juvenile delinquents. What had to be done, in her view, was to combat the illegal forms of polygamy.

40. Mrs. WILMOT (Ghana) shared the Philippine delegation's reservations concerning the New Zealand amendment. She might find it possible to vote for it if the words "as appropriate" were deleted. She would be able to support the amendment submitted by Nigeria and Senegal to sub-paragraph (b) of article 2 (A/C.3/L.1440/Rev.1).

41. She would prefer the introductory paragraph of article 2 to be retained in its present form. While the abolition of laws which were discriminatory against women could hardly be said to be tantamount to the elimination of discriminatory practices, it could enable a start to be made in developing the process which would culminate in the desired result. For that reason, she endorsed the criticisms of the amendments to article 2 made by the delegations of the United States, Liberia and Finland.

42. Mr. MIRZA (Pakistan) felt that the whole point of the discussion was whether customs could be abolished. The United States representative had claimed that they could, but the racial violence now occurring in her country seemed to indicate that discriminatory practices existed despite the adoption as far back as the previous century of laws forbidding them. Customs, manifestly, were stronger than laws. It was only by educating the population, therefore, that the disappearance of discriminatory customs and practices could be looked for. The Pakistan representative fully approved the statements by the Senegalese delegation. It had to be remembered, furthermore, that certain customs which some people regarded as discriminatory were not felt to be such by others. The definition of a discriminatory custom was thus highly subjective: hence the difficulty of finding a formula which satisfied everyone.

43. There was no reason why the text proposed in document A/C.3/L.1440/Rev.1 should not receive unanimous support. As to the New Zealand amendment, it raised no difficulties for the Pakistan delegation, which felt that the deletion of the words "as appropriate" would render the text too imperative, for most of the constitutions already contained provisions guaranteeing equality of rights for both sexes.

44. Miss HART (New Zealand) pointed out that her delegation's amendment was in no sense designed to restrict the scope of the text. However, in response to the suggestion of the delegation of the Philippines and in order that there should be no confusion about the interpretation of the amendment, she would delete the words "as appropriate".

45. Mrs. CAO-PINNA (Italy) said that the general discussion had shown that the delegations were all agreed in thinking that customs and practices could not be eliminated at one stroke by legislative measures. Such measures, however, would certainly contribute towards the disappearance of undesirable customs and practices. With regard to the amendment submitted by Nigeria and Senegal (A/C.3/L.1440/Rev.1), she wondered whether it would be possible to reintroduce the words "customs and practices", replacing the word "abolish" by "eliminate" or "eliminate progressively". The amendment proposed by the Democratic Republic of the Congo (A/C.3/L.1450) seemed to her to be preferable to that proposed by Nigeria and Senegal, but she felt that the initial text had been still more satisfactory.

46. Mr. DESETA (Brazil) saw no difficulty in accepting the amendment proposed by Nigeria and Senegal to the introductory paragraph of article 2. Laws abolishing slavery had been promulgated in Brazil about a century ago, and slavery had in fact disappeared when those laws entered into force. However, he could also accept the Commission's text as it stood.

47. Mr. SIRI (El Salvador) said that the basic text had been quite satisfactory, as it provided for measures which would make it possible to eliminate customs. His delegation felt that the text should not be modified except where really necessary, and would therefore vote in favour of the original wording.

48. Mr. PAOLINI (France) found that the New Zealand amendment, as revised by its author, was still un-

satisfactory. He appreciated the difficulties which the present wording of sub-paragraph (a) connoted for countries which had no written constitution, but the alternative proposed by the New Zealand amendment provided a loop-hole for Governments unwilling to guarantee the principle of equal rights for men and women. The point was that that principle should properly become one of the fundamental legal principles of the social organization of States. It should even be mandatory on the legislator. Furthermore, in countries where there was no control over the constitutionality of laws, constitutional guarantees alone were insufficient. He accordingly proposed the follow-

ing formula: "The principle of equality shall be guaranteed by the constitution and by the law." Since there was nothing in that formula which indicated that a written constitution was necessarily involved, countries with customary constitutional laws should be able to accept it.

49. The CHAIRMAN invited all the authors of amendments, including those who had submitted oral amendments, to consult together with a view to formulating a joint text.

*The meeting rose at 1.5 p.m.*