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Chairman: Mr. Jiří NOSEK (Czechoslovakia).

AGENDA ITEM 59

Status of women in private law: customs, ancient laws and practices affecting the human dignity of women (A/2718, A/2686, chapter V, section XI, paragraphs 811 to 818, A/C.3/L.457 and Corr.1) (continued)

1. Mrs. HUSSEIN (Egypt) expressed her gratification at being the first woman to represent Egypt in a United Nations committee and paid a tribute to the Commission on the Status of Women for the wide range of its documentation, and its achievements.

2. It was not possible to discuss the status of Egyptian women without mentioning Islam, which was the religion of 90 per cent of the population of Egypt and also of large numbers of people in the dependent territories to whom Economic and Social Council resolution 547 H (XVIII) applied. Islam was both a religion and a social system, in which the rights and duties of women were defined in great detail. Egyptian law was in conformity with Islamic jurisprudence. However, the true spirit of Islam had been grasped by only a few. Many persons, both Moslems and non-Moslems, misinterpreted the message of Mohammed, and the truth had been further blurred by the writings of many non-Moslems, who had often attributed to Islam practices adopted by Moslem peoples but predating Islam in origin. Such errors had even appeared in United Nations documents.

3. The three institutions usually considered as most typically Moslem, the veil, the harem and polygamy, had in fact been well established many centuries before the dawn of Islam. The veil had been an ancient Babylonian custom. In the early days of Islam, women had not been confined to the harem, but had participated in all activities equally with men. It had not been until Moslem society had become wealthier that privileged women had been spared the hardships of the struggle for existence; the poorer Egyptian women still lived unfettered by the veil or seclusion. The Koran enjoined believers to marry only one wife, but the pre-Islamic practice of polygamy had persisted in many communities. In Egypt, only 4 per cent of the married population practised polygamy and the percentage was decreasing.

4. Islam proclaimed liberty as the fundamental basis of law and advocated equality and brotherhood for all. It had rescued women from the degradation into which they had fallen and recognized them as independent beings. They had ceased to be chattels and had received a legal personality, the right to keep their family name after marriage, to possess property and dispose of it freely without the intermediary of a husband or guardian, to be guardians over minors, to pursue trades and to institute legal proceedings. European women had not reached a corresponding stage of emancipation until twelve centuries later.

5. The liberal spirit of Islam had suffered some reverses under the pressure of retrograde social practices and dogmatic interpretations of some religious injunctions concerning women, but the errors of the past were being rectified. For nearly a century, Moslem reformers had been attempting to recapture the original liberal spirit of Islam, while the gradual intellectual and social regeneration of Egyptian society had paved the way for women to take their proper place in the community.

6. The results of two generations of enlightened leadership were evident in nearly every sphere of the Egyptian woman's life. Thirty years before, Egypt had had a population of 14 million, the total school enrolment had been only 130,000 of whom only 20 per cent had been women. The population had increased to 21 million; there were nearly 2 million students in the schools, of whom 35 per cent were women. Women were following courses in technical and vocational schools and many were attending universities, where they studied side by side with men. The veil had become practically obsolete.

7. A considerable number of educated women were occupying government and other posts as surgeons, physicians, lawyers, journalists, auditors, to mention only a few. More than 140 women teachers and research workers were connected with the three modern Egyptian universities and more than 15,000 were employed in government service. Their conditions of employment were the same as those of men, and in some departments they had already attained the highest posts. There were 150,000 women working in trade and industry. The Egyptian labour laws conformed to International Labour Organisation standards and applied equally to men and women; the only discriminatory measures were those protecting women by limiting their employment in night-work and in certain dangerous occupations. Egyptian women had always shared agricultural work with men and still did so.

8. Voluntary and professional social work had recently been opened to women, who were participating in the activities of more than a hundred organizations. They had given ample proof of their ability and efficiency, and their contribution at times of national emergency, such as the malaria and cholera epidemics

of 1942 and 1947, had won recognition from the Egyptian public health authorities. Many of the organizations received help from the Government, which in several cases had enlisted their help for its own social welfare projects. It had also in some cases used pilot projects initiated by voluntary organizations as a basis for nation-wide programmes. A case in point was the village nursery school system, which had been introduced into the rural social centres by the Village Committee of the Cairo Women's Club.

9. Government recognition of the role of women in the social reconstruction of Egypt was the fruit of forty years of struggle, which had also led to changes in the Egyptian marriage and divorce laws to match changed social conditions. The Commission entrusted with the drafting of a new Egyptian Constitution had recommended the inclusion of an article giving women equal political rights with men.

10. The modern spirit of Islam provided no pretext for maintaining laws, customs or practices that hindered the advance of Moslem women. Egypt had therefore been happy to co-sponsor the draft resolution (A/C.3/L.457 and Corr.1) before the Committee. Egyptian experience would serve as a guide and an encouragement to many Moslem peoples throughout the world. Egypt was an ancient land, but a new spirit was running through it. With the spread of education and progress in economic development, Egypt was confident of realizing an abundant and dignified life for all its peace-loving people.

11. Mr. KOS (Yugoslavia) congratulated the Commission on the Status of Women on its recommendation which had been adopted as Economic and Social Council resolution 547 H (XVIII). The different family systems were characterized by the status of women and their property and marriage rights, and they evolved in conformity with economic and social changes. As a country progressed, the status of women improved. It might therefore seem unnecessary to adopt a resolution on the subject, but it was useful in focusing attention on the problem, which affected society as a whole when the inequality and subjection of women prevented progress.

12. Obsolete traditions, customs and laws persisted longest in family relations. Yugoslavia considered that the State should abolish anachronistic customs and that the protection it afforded to the family should include the introduction of progressive ideas with regard to human relations. All inequality in the status of women in society and with regard to private law had therefore been abolished in Yugoslavia.

13. Laws were, however, only the first step and had to be supported by other measures which were not always easily implemented. Under Yugoslav law, women had full equality with men and steps had been taken to give them real equality in the economic, educational and other fields. Through the implementation measures, particularly in educational matters, the Government hoped to overcome the resistance which was deeply rooted in tradition and antiquated modes of thought, and finally bring the most backward elements of the population to a better understanding of their own interests.

14. There were some territories, particularly some of the Non-Self-Governing Territories, which were still too backward to desire such legislation, but the draft resolution (A/C.3/L.457 and Corr.1), which

stressed the need in education, took those difficulties into account. The adoption of such a resolution by the General Assembly would help the Administering Authorities to bring about the necessary social changes.

15. The draft resolution was not complete, as it was impossible to enumerate all the customs, ancient laws and practices affecting the human dignity of women, but it was an attempt to apply the principles of the Universal Declaration of Human Rights. He hoped that it would be adopted unanimously.

16. Mrs. TSALDARIS (Greece) said that the Economic and Social Council had shown its appreciation of the work done by the Commission on the Status of Women by adopting resolution 547 H (XVIII), with which the draft resolution (A/C.3/457 and Corr. 1) before the Committee was in full conformity. As it urged States that were Administering Authorities to take measures to abolish customs, ancient laws and customs affecting the human dignity of women and stressed the importance of education, it was also in harmony with the United Nations Charter and the Universal Declaration of Human Rights.

17. The Greek Parliament had already ratified the international Convention on the Political Rights of Women (General Assembly resolution 640 (VII), annex) and was adapting its laws to bring them into line with the Convention.

18. She was happy to see, for the first time, that a woman was representing Egypt. There could be no better proof of the Egyptian women's success in their struggle for their rights.

19. Mrs. MARZUKI (Indonesia) said that the work done by the Commission on the Status of Women to promote the equality of women with men in both civil and private law was most commendable and the continuing interest taken in that subject by the United Nations as a whole was most encouraging.

20. Article 7 of the Indonesian Constitution guaranteed the equality of all before the law. In principle, legal capacity was not affected by distinction of sex, but both women and men had a somewhat different legal status if they were subject to customary unwritten law or to codified law.

21. The legal position of women in Indonesia resulted from the complex legal system in force in the former Netherlands East Indies. Under the Netherlands administration, equality before the law had not necessarily implied that the same laws were to be applied to all groups of the population. The concept of separate law dated from 1747. In 1848, the inhabitants had been classified for legal purposes into four groups: Europeans, persons assimilated to Europeans, Indonesians and persons assimilated to Indonesians. In 1920, that classification had been changed, the groups becoming Europeans, Indonesians and foreign orientals. Codes based on European models had been provided for the European group and efforts had been made to codify the law for the other two groups along European lines. The substantive civil law for the Indonesian population had, however, remained so-called *adat* law—*adat* was the Arabic word for "custom"—which was uncoded and largely non-statutory. Codification of the law had failed and an attempt had therefore been made to obtain unification of the law along European lines. A criminal code and certain courts and procedures had been established for all the population groups, but a uniform civil code

had never been drawn up. *Adat* law was regarded as the living law of Indonesia, although its scope had been considerably restricted.

22. The position of women varied under *adat* law, since there were important local differences due to peculiarities of social organization and differing customary principles. In some areas, such as Java, women were equal to men, in others not. Whereas in general women subject to codified law along European lines were not legally capable and had to obtain their husband's authorization or assistance in performing legal acts, under *adat* law husband and wife acted independently. Under the former, a married woman could act independently only in seven instances defined by law in which the authorization of the husband was presupposed; she could not act as the executor of a will, be appointed arbitrator nor act independently in court, whereas under the latter the consent of the wife was presupposed whenever a husband took legal action, but the husband could not act alone if the wife openly opposed it. Thus, women under *adat* law were not necessarily inferior to men or to women under codified law.

23. Under *adat law*, marriage was to a varying degree a matter of kinship group, family or community. It had, however, always been a matter of personal concern, increasingly so since Moslem and Christian marriages had provided an escape from family, group and community obligations. The principle of freedom in the choice of a spouse had become increasingly accepted, and it was a generally recognized principle among those who, for various reasons, had moved out of the sphere of *adat* law.

24. Christian, and especially Moslem, marriages had become a constituent part of the marriage process as a whole, although traditional elements were retained. Civil registers, formerly kept only for Christian marriages, now covered all marriages.

25. With regard to the so-called bride-price, it should be remembered that in the past patriarchal, matriarchal and joint organizational systems had existed side by side. The current trend, however, was towards the modern concept of the family as the basic unit of society, with both spouses sharing equal rights and responsibilities towards the children. The relevant provisions of the Universal Declaration of Human Rights had been incorporated in the Indonesian provisional constitution. Marriage payments, which had formerly been found almost everywhere, had been the logical consequence of the old organizational systems as a central factor in the exchange system between the clans and as a magical means of releasing the individual and his or her children without disturbing the social equilibrium and the balance of the cosmos. They now represented exchanges originating in and surviving a unilateral system and possessed a functional and symbolical significance of their own; they could no longer properly be termed "bride-price". When they were paid to the women personally, they should rather be termed "marriage portions", as in Moslem law, usually accepted in validation of marriage, whereas the bride-price could hardly be considered to validate marriage, since the marriage would not take place at all if it were withheld. The marriage portion was a virtually nominal payment, with only a symbolic meaning, and often remained as a symbolic debt.

26. Child marriages had been common in some areas under *adat law*, while in others child marriage had been

a penal offence. Child marriages were not currently favoured and were disappearing under pressure from the women's organizations.

27. The status of Indonesian women in private law was not now in any way inferior to that of Indonesian men to whom the same kind of law applied. Differences of opinion as to whether that law would hinder the adjustment of Indonesian life to the modern world had long been expressed. Indonesian women had, however, severed their efforts to improve their status from the more general question. A draft marriage law, regulating all aspects of marriage for all Indonesian women, whether Moslem, Christian or Buddhist, had been under consideration for two or three decades. The latest revision had been unanimously accepted by the women's organizations.

28. She would find some difficulty in accepting the Afghan amendment (A/C.3/L.459) to paragraph 1 of the operative part of the draft resolution (A/C.3/L.457 and Corr.1) because "civil register" was the term used in Indonesia for the register of marriages, births, deaths and divorces.

29. Mrs. QUAN (Guatemala) observed that the common saying that the twentieth century was materialist was wrong; it was a century of human values, as was shown by the respect of the United Nations for the dignity of the human person, and, in particular, by the kind of matters with which the Third Committee concerned itself. The progress the United Nations had achieved in its work for the improvement of the status of women could not have occurred if the age had not been ripe for spiritual development.

30. In Guatemala, women had been legally capable since 1879. In 1945 the franchise had been granted to women who could read and write, but it had not until recently been made compulsory for both literate men and literate women.

31. It was to be regretted that no specific reference had been made to the excellent work the specialized agencies, in particular the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the Food and Agriculture Organization of the United Nations and the International Labour Organisation were doing to improve the status of women. An especially interesting project was the ILO programme to stimulate cottage industries. Unless women achieved means for self-sufficiency, men would always take the main part in public and private life. Feminism did not mean competing with men, but collaborating with them. The growth of cottage industries, especially in countries in which the equality of women with men was still somewhat precarious, would imbue women with self-confidence and would help preserve the unity of the family. It would be an advance towards the social and economic betterment of women's conditions.

32. She wished to express her Government's gratitude for the concern shown by the United Nations, especially the Commission on the Status of Women, to promote the improvement of women's status.

33. As a sponsor of the draft resolution (A/C.3/L.457 and Corr.1), she hoped that it would be adopted unanimously.

34. Mr. FOMIN (Union of Soviet Socialist Republics) said that women had enjoyed full equality with men in every respect in the Soviet Union ever since the October Revolution of 1917. In conformity

with the principles of the United Nations Charter, the Soviet Union delegation had supported in all United Nations organs all measures to eliminate discrimination against women.

35. The draft resolution (A/C.3/L.457 and Corr.1), if put into effect, would help to eradicate the discrimination that still existed in some countries. He would vote for it and for the Afghan amendments (A/C.3/L.459), which strengthened it.

36. Miss BERNARDINO (Dominican Republic) said that she wished to congratulate the Egyptian representative on her magnificent and eloquent statement on the development of the status of women in her country and on being the first Egyptian woman to represent that development in the General Assembly. Her statement had embodied statistical data and information of the greatest value to all women and especially to the Commission on the Status of Women. She hoped that it would be possible for the Egyptian representative's statement to be incorporated in full in the Committee's records. She wished to convey her most sincere congratulations to the Egyptian Government for its outstandingly democratic gesture in appointing, for the first time, a woman to represent it in the General Assembly and in choosing a representative of such high calibre.

37. Mr. PAZHAWAK (Afghanistan) fully associated himself with the views expressed by the Egyptian representative and especially with her references to Islam and to United Nations documents.

38. He would vote for the draft resolution (A/C.3/L.457 and Corr.1) before the Committee because its provisions were in conformity with Afghan laws, but he had proposed a few amendments (A/C.3/L.459) to strengthen the text and make it clearer. The purpose of point 1 of the amendments, calling for deletion of the word "ancient" from the second and third paragraphs of the preamble, was to establish the fact that the General Assembly could not condone any laws, whether ancient or not, which were contrary to the principles of the United Nations Charter and the Universal Declaration of Human Rights. He had not proposed, however, that the adjective should be deleted from the operative part because it seemed to be logical to specify the laws concerned in connexion with a precise enumeration of the practices which should be abolished.

39. The purpose of point 2 (a) of the amendments was to bring the resolution into line with United Nations documents in which reference was made to Non-Self-Governing Territories and with the Economic and Social Council resolution (547 H (XVIII)) on which the draft was based. In point 2 (b) he had proposed the deletion of the word "civil" before the word "register" because the type of registration should not be limited. If it was considered that the word "civil" should be retained, he would suggest the insertion of the words "or other" after that adjective. Finally, in point 2 (c) of the amendments, he had proposed the deletion of the words "duly appointed" before "magistrate" because they seemed to restrict cases involving personal rights to a magistrate specially appointed for the particular case, whereas that would certainly not always be true.

40. Miss AGUILAR (Peru) pointed out that the international principles set forth in the draft resolution (A/C.3/L.457 and Corr.1) were unexceptionable, as

they were based on the right of all human beings to live in freedom from fear and prejudice. The principle of equal rights for men and women was approached by some with apprehension, scepticism and pessimism and was viewed in the light of a competitive economic struggle. Unless that problem was solved, however, the solution of many other important questions might be delayed. In the struggle for equal rights, there could be no question of opposition between men and women, since the purpose was to achieve co-operation between the sexes at all levels.

41. Women should not be deprived of fundamental rights merely because of prejudice and tradition. Sociologists often said that customary law was very difficult to change. Some alleged that the fabric of society would disintegrate if women left their homes, while others claimed that it was in the interest of men and women alike to establish legal differentiation; historians pointed to the past achievements of men. In spite of those objections, however, the Charter of the United Nations and the Universal Declaration of Human Rights unequivocally proclaimed the principle of equal rights. All practices prejudicial to the human dignity of women should therefore be eradicated.

42. Mr. RIVAS (Venezuela) paid a tribute to the work of the Commission on the Status of Women, whose excellent resolutions had been adopted by large majorities in the Economic and Social Council. Venezuela was a member of the Commission and its membership was justified by the fact that women enjoyed absolutely equal rights with men in Venezuela. All vestiges of customs, ancient laws and practices affecting the human dignity of women had been eliminated, thanks to the unremitting struggle of progressive women to bring to the notice of the public matters which had previously been disregarded. In the light of its own experience, Venezuela had been glad to join in sponsoring the draft resolution (A/C.3/L.457 and Corr.1), which implied no criticism of any country or territory, but called for co-operation in abolishing harmful practices.

43. He was prepared to accept points 2 (a) and 2 (b) of the Afghan amendments (A/C.3/L.459) but considered that it would be better to retain the word "ancient" in the preamble and the words "duly appointed" in operative paragraph 1; that phrase did not mean that a special magistrate should be appointed for every individual case involving personal rights, but merely implied that such cases should be tried by a representative of the legal authority.

44. Miss DE VINK (Netherlands) said that her Government fully endorsed the spirit and purpose of the draft resolution (A/C.3/L.457 and Corr.1) and tried to carry out those purposes in the Territory of New Guinea, where old customs affecting the human dignity of women still existed. Nevertheless, in view of the primitive state of the people of the Territory, the desirable changes could not be effected rapidly. The *adat* practices were deeply rooted in the life of the people and changes were opposed by the women themselves, who did not always understand that their position could be altered in their own interest and in that of their children. Moreover, a sudden change by legislative means without a corresponding change of mentality might lead to serious social disturbances. Although the value of legal measures should not be underestimated, in that particular Territory, where there

was a strong reluctance to submit to the rules of community life and where the population was widely dispersed, the welfare of the people would best be served by first bringing about a change of mentality and especially a clearer understanding of the human dignity of women. The best way of achieving results would be by educating the children and re-educating adults, especially in moral and social matters, in so far as that was compatible with their way of life and standards of living.

45. Mr. RODRIGUEZ FABREGAT (Uruguay) observed that the United Nations was proceeding with confidence and determination along the path traced by the Charter and the Universal Declaration of Human Rights with regard to the equality of rights of men and women. Mankind was awakening to the realization of the inherent rights of every man, woman and child and of the individual status of every human being. The debate had shown that the Committee was unanimous in its condemnation of practices which were prejudicial to that lofty principle and that Member States would co-operate in the abolition of such practices.

46. As the representative of a country where the absolute equality of rights was regarded not as a privilege conferred upon women, but as part of the harmonious social structure, he whole-heartedly endorsed the draft resolution (A/C.3/L.457 and Corr.1), which provided the General Assembly with a further

opportunity of promoting the inalienable rights of a vast section of mankind which had been victimized and exploited for centuries.

47. Mr. BIHIN (Belgium) said that he would vote for the draft resolution (A/C.3/L.457 and Corr.1), the purposes of which coincided with Belgian policy, on the understanding that the reference to Non-Self-Governing Territories in operative paragraph 1 related to all territories which had not acquired full self-government, and not only to Non-Self-Governing Territories within the meaning of Article 73 of the United Nations Charter. The purposes of the draft resolution could be achieved only gradually in certain territories of Asia and Africa where practices affecting the human dignity of women were deeply ingrained and where sudden changes might lead to serious social upheavals. Measures along the lines of the draft resolution were being taken in Belgian overseas territories, with due regard for the family structure of the indigenous populations.

48. With regard to the Afghan amendments (A/C.3/L.459), he did not quite see the purpose of the proposal to delete the word "ancient" from the preamble. He considered that the addition of the words "and Trust" and the deletion of the words "duly appointed" improved the text, but could not vote for the deletion of the word "civil", as the French text would make no sense without that adjective.

The meeting rose at 1.5 p.m.