

UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL



Distr.  
GENERAL

E/CN.6/SR.189  
20 April 1955  
ENGLISH  
ORIGINAL: FRENCH

COMMISSION ON THE STATUS OF WOMEN

Ninth Session

SUMMARY RECORD OF THE HUNDRED AND EIGHTY-NINTH MEETING

Held at Headquarters, New York,  
on Wednesday, 23 March 1955, at 11.55 a.m.

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PRESENT:

<u>Chairman:</u>	Miss BERNARDINO	Dominican Republic
<u>Rapporteur:</u>	Mrs. ROSSEL	Sweden
<u>Members:</u>	Miss CHAMORRO ALAMAN	Argentina
	Mrs. DALY	Australia
	Mrs. NOVIKOVA	Byelorussian Soviet Socialist Republic
	Miss TSENG	China
	Miss MAÑAS	Cuba
	Mrs. LEFAUCHEUX	France
	Mrs. GUERY	Haiti
	Miss ROESAD	Indonesia
	Mrs. TABET	Lebanon
	The Begum ANWAR AHMED	Pakistan
	Mrs. DEMBINSKA	Poland
	Mrs. FOMINA	Union of Soviet Socialist Republics
	Mrs. SAYERS	United Kingdom of Great Britain and Northern Ireland
	Mrs. HAHN	United States of America
	Mrs. SANCHEZ de URDANETA	Venezuela
	Mrs. MITROVIC	Yugoslavia
<u>Also present:</u>	Mrs. LOPEZ	Colombia
	Mrs. KIEP	Federal Republic of Germany
	Mrs. de TEJEIRO	Panama
<u>Representatives of specialized agencies:</u>		
	Mrs. FIGUEROA	International Labour Organisation
	Miss SALAS	United Nations Educational, Scientific and Cultural Organization
<u>Representatives of an inter-governmental organization:</u>		
	Mrs. de CALVO )	Inter-American Commission of Women
	Mrs. de CHAVES )	

PRESENT: (cont'd)

Representatives of non-governmental organizations:

<u>Category A:</u>	Miss SENDER	International Confederation of Free Trade Unions
	Mr. THORMANN	International Federation of Christian Trade Unions
	Miss KAHN	World Federation of Trade Unions
	Miss FOX	World Federation of United Nations Associations

Category B and Register:

Miss GUTHRIE	International Alliance of Women
Mrs. PARSONS	International Council of Women
Miss MACLEAN ) Mrs. MEINANDER ) Miss POLLITZ )	International Federation of Business and Professional Women
Miss LAGEMANN	International Federation of Friends of Young Women
Miss ROBB	International Federation of University Women
Mrs. ROBERTS	Liaison Committee of Women's International Organizations; Associated Country Women of the World
Mrs. ANDRAS	<u>Nouvelles équipes internationales</u>
Mrs. MADDEN	Pax Romana
Mr. JACOBY ) Mrs. RICHMAN )	World Jewish Congress
<u>Secretariat:</u>	
Mrs. TENISON-WOODS	Chief of the Status of Women Section
Mrs. GRINBERG-VINAVER	Secretary of the Commission

NATIONALITY OF MARRIED WOMEN: (a) REPORT ON COMMENTS FROM GOVERNMENTS ON THE DRAFT CONVENTION ON THE NATIONALITY OF MARRIED WOMEN (E/CN.6/259 and Add.1-3; E/CN.6/L.153 and Corr.1, L.163, L.164, L.165); (b) REPORT ON CHANGES IN LEGISLATION CONCERNING THE NATIONALITY OF MARRIED WOMEN

The CHAIRMAN drew attention to a number of documents: a booklet entitled Nationality of Married Women; document E/CN.6/259 and Add.1-3, containing the comments of Governments on the text of the draft convention on the nationality of married women; the draft convention proposed by the Cuban delegation (E/CN.6/L.153 and Corr.1); and the amendments to that draft proposed by Australia (E/CN.6/L.163), the United Kingdom (E/CN.6/L.164) and the United States of America (E/CN.6/L.165).

Perhaps the Commission's most important measure, after the drafting of the Convention on the Political Rights of Women approved by the General Assembly in 1952, was the draft convention on the nationality of married women. The Commission's main object was that a woman should not automatically lose her nationality through marriage to an alien, or automatically acquire, except at her express request, the nationality of her husband.

The draft convention on the nationality of married persons, proposed by Cuba at the seventh session, had not met with the support of a number of delegations which had preferred a stricter text, more in accord with the Regional Convention adopted at Montevideo in 1933. Other delegations had taken the view that consideration of the draft should be deferred and the International Law Commission should be asked to study the question.

In pursuance of resolution 504 B (XVI) of the Economic and Social Council, the Secretary-General had circulated to the Governments of Member States the text of the draft convention on the nationality of married persons, requesting their comments which were to be made available to the Commission on the Status of Women for consideration at its eighth session.

(The Chairman)

At its eighth session, the Commission had had before it a "draft convention on the nationality of married women", also proposed by Cuba. Following the same procedure, the Secretary-General had circulated that text to Governments, together with certain amendments proposed by the United Kingdom. Twenty-three Governments had since then transmitted their comments on that draft convention to the Secretary-General.

Two courses were open to the Commission: the Cuban draft might be referred to the Economic and Social Council for consideration with the request that the Council in turn should submit it to the General Assembly for final decision; or else the Council might be left free to decide what should be done with the draft.

Miss MAÑAS (Cuba) said that since the seventh session her delegation had continued to campaign for the adoption of a convention on the nationality of married women because the Government of Cuba considered that the problem of nationality was one of the most important problems with which the United Nations should deal if the principles in the Charter and article 15 of the Universal Declaration of Human Rights were to be given effect.

The Chairman had described the circumstances in which Cuba had proposed two draft conventions since the Commission's seventh session. Continuing its efforts, the Cuban delegation was proposing a further draft convention on the same subject (E/CN.6/L.153 and Corr.1). The Spanish text of article 1 should be corrected so as to make it correspond to the English and French texts. The words entre uno de sus nacionales y una extranjera should be replaced by the words entre nacionales y extranjeros; and the article in question, like the two which followed, should begin with the words Cada uno de los Estados contratantes. Actually, the latest Cuban text was not a new draft but rather a revised version of the draft proposed at the eighth session. Articles 1, 2, and 3 were substantially unchanged. In article 3, the original words "subject to such limitations only as may be imposed by law in the interests of security and public policy" had been replaced by "subject to the limitations imposed by the law of the State...", the limitations connected with security and public

(Miss Mañas, Cuba)

policy being implicit since they were found in the naturalization laws of all States. Article 4 of the earlier draft had been dropped because the Cuban Government considered it redundant in view of article 3. The new article 4 corresponded to the former article 5 except for a minor change: the addition of the phrase "and by any State not a Member of the United Nations which is or may in the future be a member of one or more of the specialized agencies of the United Nations or which is or becomes a Party to the Statute of the International Court of Justice".

The remaining articles of the draft had been left unchanged. The earlier debate had shown that all representatives were in agreement on the substance of the problem: a woman who freely contracted a marriage should not be deprived of her nationality against her will. It was the Commission's duty to end the discrimination to which women were subjected by the automatic change of their nationality by reason of marriage. Since the International Law Commission had informed the eighteenth session of the Economic and Social Council that owing to its very heavy agenda it would be unable for the time being, to deal with the question of the nationality of married women separately from that of statelessness, and since it had not been able to indicate when it would be able to deal with it, the solution of the problem rested with the Commission on the Status of Women. By adopting the draft convention it would be taking a long step forward towards the desired objective. Thousands of women were waiting to be freed from the unequal status in which they had to live. The draft convention offered a way of accomplishing that. Difficulties could be solved by combined efforts.

She reserved the right to speak again on each of the amendments proposed by the United Kingdom, United States and Australia.

Mrs. HAHN (United States of America) said the United States had consistently taken the view that the position of married women should be considered in relation to the entire subject of nationality. Since nationality was a topic within the competence of the International Law Commission, the draft convention should be forwarded to that body for its information. Believing also that the

(Mrs. Hahn, United States of America)

Commission on the Status of Women should explore all aspects of the question in order that its proposals might reflect its best efforts, she would participate in the discussion even though her Government did not expect to become a party to the convention. She drew attention to the United States amendments (E/CN.6/L.165) to the draft convention proposed by the Cuban delegation (E/CN.6/L.153 and Corr.1)

The article which her delegation proposed should be inserted before article 1 stated a principle the fundamental importance of which the Commission had recognized in 1950; the clause had been included in the original text which the Cuban delegation had proposed in 1953. It had been dropped in 1954 after several Governments had indicated that it was in conflict with their laws, particularly with provisions under which the naturalization of an alien wife was subject to a shorter time limit than that of an alien husband. As the French representative had pointed out at the time, however, provisions of that nature implied a condition of inequality in that it was the woman rather than the man who was encouraged to change nationality, a circumstance that could be detrimental to the woman and to her children, and in that it was assumed that the wife's nationality was less important than the husband's. Without the clause proposed by the United States the draft convention would not ensure the full equality of husband and wife in the matter of nationality.

To make the title and other articles of the draft convention consistent with the new clause which the United States proposed, they would have to be revised to apply to both spouses, not to the wife alone.

Moreover, the United States Government considered that a reservations clause should be added, setting forth the procedure currently applied in the United Nations in the matter of reservations. The text her delegation wished to propose was that of the reservations clause in the Convention on the Political Rights of Women.

With respect to nationality laws, the very useful new Secretariat publication entitled Nationality of Married Women (E/CN.6/254) would be helpful not only to women but also to government officials, lawyers, organizations and private individuals in every country. The Secretary-General should be congratulated on having included an analysis of legislation in so many countries and on the clarity of the presentation.

(Mrs. Hahn, United States of America)

The fact that the first edition of the booklet had been published only five years earlier was evidence of the rapid progress achieved. It was encouraging to note that only seven of the seventy-eight countries listed still required a woman who married an alien to give up her own nationality; as a consequence, the danger of statelessness was considerably reduced. The fact that special provisions relating to the naturalization of an alien husband were included in the legislation of as many as thirty-seven countries should be noted with satisfaction as indicating that discrimination against men was also declining.

In the United States, where in recent years many young persons had married aliens, conflicts in nationality laws were of interest to an increasing number of persons not only as those conflicts affected husband and wife but also as they affected the children. Information on the progress achieved was therefore of direct and practical value to many families throughout the United States.

She recalled that a few years earlier the Commission had decided that the item of nationality should remain on its agenda indefinitely so that there would be an opportunity at each session to learn of the changes which had taken place.

Miss TSENG (China) said that in her country an alien woman who married a Chinese man or an alien man who married a Chinese woman could, at their discretion, either retain their nationality or become Chinese nationals; in other words, marriage had no effect upon nationality.

Mrs. FOX (World Federation of United Nations Associations) referred to her organization's comments (E/CN.6/NGO/29). As an organization open to both men and women, for whom the question was equally important, the Federation had often recommended the adoption of a convention on the nationality of married women. The Federation supported in principle the draft convention proposed by the Cuban delegation and, when the text was submitted in final form to the Economic and Social Council and the General Assembly, would work for its adoption.



Mrs. SAYERS (United Kingdom) said that, realizing that the International Law Commission had a heavy agenda and would consequently be unable to deal with the nationality of married women at an early date, her delegation welcomed the Cuban representative's initiative. It hoped that a text would be worked out which would be acceptable to the largest possible number of States.

Commenting on the text of the draft convention proposed by Cuba (E/CN.6/L.153 and Add.1), she said the preamble was entirely acceptable. A point of minor detail should be noted: the term "Contracting Parties" was used in the preamble, whereas the body of the draft convention spoke of "Contracting States". During the drafting of the final text the terminology would presumably be standardized.

Her Government had stated in its comments (E/CN.6/259) that reservations should be admissible to articles 1 and 2. It was now of a different view since it was clear that a contracting State could only assume obligations with respect to persons who were its own citizens and with respect to its own citizenship.

Nevertheless, it proposed that the words "nor the change of nationality by the husband during marriage" should be omitted from article 1 as they appeared to encroach upon the substance of article 2.

She construed article 1 to mean that the contracting States agreed that neither the marriage of an alien woman to one of its nationals nor the marriage of one of its own national women to an alien would automatically affect the nationality of the wife. While the English text was clear, as the words "nationals" and "aliens" applied equally to both sexes, the French and Spanish texts might offer some difficulty.

With regard to article 2, her Government shared the Belgian Government's view (see E/CN.6/259) that the word "voluntary" should be deleted. A change of nationality on the part of the husband, whether voluntary or not, should not prevent the retention of the nationality of the contracting State by the wife. The words "shall prevent" should be used instead of "will affect" in order to conform to the Spanish text.

Article 3 was entirely acceptable to the United Kingdom delegation.

(Mrs. Sayers, United Kingdom)

With respect to the former article 4, which had been omitted from the redraft, her Government, while not attaching great importance to the article, could not agree with the reasons for its omission given by the Cuban Government (E/CN.6/259). The Universal Declaration of Human Rights could not impose legal obligations. Moreover, the former article 4 was not rendered entirely redundant by the terms of article 3 because it introduced the concept of privileged naturalization procedures and also because in some countries there might be conflict between national legislation and an international convention which would constitutionally become self-implementing domestic law. Perhaps the Australian amendment (E/CN.6/L.163) disposed of the difficulty.

She referred to the question of the extension of the convention to citizenship of territories for the international relations of which the United Kingdom Government was responsible, but which had their own citizenship - Southern Rhodesia and the Kingdom of Tonga, for example. The Governments of those Territories would have to be consulted, and their acceptance obtained, before the convention could be extended to them. That might be a lengthy process and it was therefore the United Kingdom Government's view that, in the absence of an appropriate article in the convention, either the United Kingdom would be unable to become a Party to the convention until all those territories had given their consent, or alternatively the United Kingdom could assume obligations in respect of itself and its colonies only, the territories concerned being then perpetually debarred from having the convention extended to their citizenship.

Since, however, the convention dealt with a status which was not territorial in its application but extended to the citizens of a contracting State wherever they might be, the United Kingdom Government had decided to withdraw the article which it had proposed at the eighth session and to propose instead the article in document E/CN.6/L.164.

Refraining from comment on the other amendments proposed by the United States delegation, she said that if reservations were permitted to all the articles, her Government would find the reservations article proposed by the United States (and existing article 7) inadequate. Experience had shown that the question of reservations was an extremely complicated one and her delegation felt that the Commission would be well-advised to leave it to be decided by higher bodies,

(Mrs. Sayers, United Kingdom)

a procedure which had been adopted in connexion with the Convention on the Political Rights of Women. It believed that reservations should be permitted only in respect of minor inconsistencies between the obligations of the convention and domestic law, the acceptability of such reservations to be decided by a two-thirds majority of States who were or were likely to become Parties to the Convention. The United Kingdom Government had worked out a formula which had received a favourable reception in the International Law Commission, but since it was inevitably complicated she reserved the right to propose it at a later stage.

Her delegation could nevertheless accept the wide terms of article 7 if it were to be applicable only to article 3 - which seemed to be intended to confer a special privilege on the wife in the interests of family unity - but not to articles 1 and 2 which were fundamental to the purpose of the convention.

Mrs. GUERY (Haiti) congratulated the Cuban representative on her devotion to the cause of women and said that she would vote in favour of the draft convention.

The meeting rose at 1 p.m.