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COMMISSION ON THE STATUS OF WOMEN

Ninth Session

SUMMARY RECORD OF THE HUNDRED AND NINETY-FIRST MEETING

Held at Headquarters, New York
on Thursday, 24 March 1955, at 10.50 a.m.

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- (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, E/CN.6/L.163, E/CN.6/L.164 and E/CN.6/L.165)
- (b) Report on changes in legislation concerning the nationality of married women

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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
	Begum ANWAR AHMED	Pakistan
	Mr. FORYS	Poland
	Mr. CARBONNIER	Sweden
	Mrs. FOMINA	Union of Soviet Socialist Republics
	Mrs. SAYERS	United Kingdom of Great Britain and Northern Ireland
	Mrs. HAHN	United States of America
	Mrs. de URDANETA	Venezuela
	Mrs. MITROVIC	Yugoslavia
<u>Also present:</u>	Mrs. LOPEZ	Colombia
	Mrs. KIEP	Germany
	Mrs. de TEJEIRA	Panama
<u>Representatives of specialized agencies:</u>		
	Mrs. FIGUEROA	International Labour Organisation
	Miss SALAS	United Nations Educational, Scientific and Cultural Organization
<u>Representative of an inter-governmental organization:</u>		
	Mrs. de CALVO	Inter-American Commission of Women

Representatives of non-governmental organizations:

Category A: Mrs. FOX

World Federation of United
Nations Associations

Category B and Register:

Mrs. GIROUX

Catholic International Union
for Social Service

Mrs. WEDEL

Commission of the Churches on
International Affairs

Miss GUTHRIE

International Alliance of Women

Mrs. FREEMAN)

Mrs. PARSONS)

International Council of Women

Miss MACLEAN)

Mrs. MEINANDER)

Miss POLLITZ)

International Federation of
Business and Professional
Women

Miss IAGEMANN

International Federation of
Friends of Young Women

Miss ROBB

International Federation of
University Women

Miss ROSENBERGER)

Miss RUIZ OVELAR)

International Federation of
Women Lawyers

Dr. WOLLE-EGENOLF

International League for the
Rights of Man

Mrs. ROBERTS

Liaison Committee of Women's
International Organizations;
Associated Country Women of the
World

Miss GAINES

World Assembly of Youth

Mrs. RICHMAN

World Jewish Congress

Miss ZIZZAMIA

World Union of Catholic Women's
Associations

Miss FORSYTH)

Mrs. ANDERSON)

World's Young Women's Christian
Association

Secretariat:

Mrs. TENISON-WOODS

Chief, Status of Women Section

Mrs. GRINBERG-VINAVER

Secretary of the Commission

CORRECTIONS TO SUMMARY RECORDS

Mrs. GRINBERG-VINAVER (Secretary of the Commission) requested any members of the Commission who wished to make corrections to summary records to follow the procedure outlined at the foot of the title page.

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, E/CN.6/L.163, E/CN.6/L.164 and E/CN.6/L.165);

(b) REPORT ON CHANGES IN LEGISLATION CONCERNING THE NATIONALITY OF MARRIED WOMEN

Mrs. FOMINA (Union of Soviet Socialist Republics) said that the USSR had never allowed the slightest discrimination on grounds of sex, particularly with regard to nationality. Furthermore, in accordance with the Nationality Act of 19 August 1938, the marriage of a citizen of the USSR to an alien entailed no change of nationality.

She realized that the rules laid down in the draft convention submitted by the Cuban delegation (E/CN.6/L.153 and Corr.1) would help to abolish discrimination against women in the matter of nationality, wherever it still existed; she would accordingly be willing to take it as a basis for discussion.

She wished, however, to make certain comments on the text itself and the amendments proposed to it.

Her delegation could not accept article 4 as it stood, since, for no valid reason, it limited the number of States which could become parties to the Convention. She suggested that the article should be redrafted so that the Convention would be open for signature by all States, whether Members of the United Nations or not. The last sub-paragraph of the draft resolution would require similar amendment.

She proposed that the words "other than article (s).....", in article 7, paragraph 1, should be deleted, since they were tantamount to a limitation of the sovereign right of States to make reservations.

In article 9, her delegation could not accept the phrase "at the request of any one of the Parties", for it ran counter to the principle of the sovereignty

(Mrs. Fomina, USSR)

of States. She proposed that it should be replaced by the words "with the consent of the Parties".

The Soviet delegation could not agree to the first United States amendment (E/CN.6/L.165), because it considered that the Commission on the Status of Women would be exceeding its terms of reference if it dealt with the nationality of married persons. She saw no need for an article on reservations. If, however, the majority of the Commission wished to include an article on reservations in the Convention, she was prepared to accept article 7 of the Cuban draft with the amendment she had suggested. She could not in any case agree to the United States reservations clause, which might have most unfortunate consequences; a Government which made reservations, of however minor a character, would no longer be bound by the provisions of the Convention in respect of States which did not accept those reservations.

With regard to the United Kingdom amendment (E/CN.6/L.164), that was not the first time that a "colonial" clause of such a nature had been placed before an organ of the United Nations. At the tenth session of the Commission on Human Rights, Belgium had submitted a similar text for inclusion in the draft covenant on human rights (E/2573, paragraph 294), which the Commission had rejected on the basis of General Assembly resolution 422 (V). In her opinion, the Commission on the Status of Women should reject the article proposed by the United Kingdom, which was incompatible with the purposes of the Convention and in contradiction to the decision the General Assembly had taken on the subject.

Miss CHAMARRO-ALAMAN (Argentina) thanked the representative of Cuba for providing the Commission with an opportunity to seek a solution to the problem of the nationality of married women.

There was no provision expressly relating to the nationality of married women in Argentine law. Nevertheless, the Constitution adopted the principle of jus soli with regard to nationality and under that principle marriage had no effect on the nationality of women.

The Argentine delegation, which thought that married women should be able to retain their original nationality and that in matters of nationality there should be no distinction on grounds of sex, would vote in favour of the draft convention.

(Miss Chamarro Alaman, Argentina)

She could not, however, accept article 9 in its present form, for it provided that disputes should be referred to the International Court of Justice for decision; the Argentine Government did not recognize the compulsory jurisdiction of the Court, reserving the right to choose the mode of settlement which it considered appropriate in each case. The Argentine delegation would submit no formal amendment but when document E/CN.6/L.153 was put to the vote it would be obliged to ask for a separate vote on each article of the draft convention.

Mrs. DALY (Australia) said that the question of the nationality of married women was related to the more general questions of nationality and statelessness. Her Government was following with the greatest interest the work of the International Law Commission on those questions but those studies would not be completed for some years. Her Government felt that that particular question should be dealt with separately from the more general questions of nationality and statelessness and that it would be possible to achieve more immediate results if the Commission confined itself to a convention concerning nationality of married women and not of married persons. She agreed with the representative of the United Kingdom that the convention should be drawn up in a form acceptable to the largest possible number of States and applicable to the greatest possible number of different citizenships.

She wished to make a few comments on the amendments submitted to the Cuban draft. She could not support the first United States amendment (E/CN.6/L.165), for the Australian Government considered that it would be more appropriate for the convention to deal only with the nationality of married women. She would vote in favour of the new draft article proposed by the United Kingdom (E/CN.6/L.164), which was designed to make special provision for the application of the convention to certain territories which were not subject to the citizenship laws of the State which was responsible for their international relations. The Australian Government would study with the greatest interest the reservations article to which the United Kingdom representative had referred (E/CN.6/SR.189).

Turning to the Australian amendment (E/CN.6/L.163), she pointed out that in its comments (E/CN.6/259/Add.1) the Australian Government had stated that article 3 of the draft convention was unacceptable to it because, under the Australian

(Mrs. Daly, Australia)

Nationality and Citizenship Act, no alien had the right to acquire Australian nationality; the grant of naturalization lay in every case within the discretion of the responsible Minister. Australian citizenship was not acquired automatically by an alien woman who married an Australian citizen. However, special provision for the acquisition of Australian nationality was provided for such persons. The Minister of Immigration could grant them a certificate of naturalization if they had been resident in Australia for not less than one year (article 15, paragraph 4), whereas the normal period for other persons was five years. Hence the Australian Government had proposed an article (paragraph 1 of document E/CN.6/L.163) to replace article 3 of the Cuban Draft Convention which would raise insuperable difficulties for countries like Australia which did not grant nationality to the alien wife of one of its nationals as a matter of right. Paragraph 2 of the new article it was proposing reproduced the substance of the former article 4, of which it was in fact only a paraphrase, and was intended to make allowance for States - again, Australia was not one of them - in which there was legislation or judicial practice by which the alien wife of one of its nationals might acquire her husband's nationality as a matter of right.

She did not know precisely how many countries were in a similar position to that of Australia but annex II of the Secretary-General's report on the nationality of married women (E/CN.6/L.254) showed that, of the countries listed, eleven gave the alien wife of a national the right to acquire her husband's nationality if she so chose and twenty-five the right to acquire the husband's nationality on easier terms than other aliens. It was therefore legitimate that provision should be made in the convention to meet the position of such countries; indeed, it was necessary if the convention was to secure the greatest possible number of ratifications.

She reserved the right to speak later on the other articles of the draft convention.

Mrs. LEFAUCHEUX (France) pointed out that the Commission was called upon to carry out technical work and to state principles. The result of its work on the important matter before it would subsequently be considered in other United Nations organs by other representatives, who might have different responsibilities and might perhaps reach different conclusions. It was therefore hard to foresee

(Mrs. Lefauchaux, France)

how the draft convention would strike Governments. From the Commission's point of view, the important thing was to show clearly its wish that some international convention on nationality should be adopted.

The draft convention prepared by Cuba was an admirable basis for discussion. She would vote in favour of the Australian amendments. Although the USSR amendments seemed at first glance acceptable, she would like to have more time to study them. The adoption of the United States amendments might perhaps make the acceptance of the draft convention more difficult; she would nevertheless vote for them, for they were in line with the principle that the problem of nationality should be dealt with from the point of view of both spouses, not only of the married woman.

She did not altogether understand the objections the USSR representative had raised to the United Kingdom amendments. Those amendments showed clearly the United Kingdom's scrupulous concern to avoid confusing its own citizens with the inhabitants of any given territory which was not an integral part of the United Kingdom so far as nationality was concerned. She did not see how that provision could be likened to a colonial clause, as the Soviet Union representative had called it.

Miss ROESAD (Indonesia) said that since no law on nationality had yet been enacted in her country, she could not take a stand on the draft convention submitted by Cuba. She would abstain from voting on the draft as a whole. Nevertheless, in case it should be voted on article by article, she would like to point out which clauses her delegation would be able to approve and those that it would be unable to support.

The Indonesian delegation could support paragraphs 1, 2 and 3 of the preamble. It could not vote in favour of articles 1 and 2 and would abstain upon them. Article 3 seemed to restrictive and somewhat contradictory. If the principle to be applied was the right of married women to choose and change their nationality if they so wished, the stress should be upon that freedom and the restrictions should be placed second. The text of the article 3 proposed by Australia seemed more appropriate and was closer to the law in force in Indonesia, where a woman acquired her husband's nationality on marriage. If

(Miss Roesad, Indonesia)

an alien woman married an Indonesian, she acquired her husband's nationality; if an Indonesian woman married an alien, she lost Indonesian nationality, but she could retain it so long as she did not acquire her husband's nationality; that provision was intended to eliminate statelessness.

The clause the United Kingdom was proposing in its amendment (E/CN.6/L.164) might have unforeseeable consequences for the United Kingdom Government itself; in any case it provided few advantages for the development of the territories for which the United Kingdom was responsible. The creation of a separate nationality in those territories might promote the evolution of national consciousness and an advancement towards self-government.

The Indonesian delegation would therefore vote against the United Kingdom amendments.

Mrs. de URDANETA (Venezuela) said that, in accordance with the position taken by her country ever since the Commission had embarked on the study of the matter before it, her delegation would support the Cuban draft convention (E/CN.6/L.153 and Corr.1), the clauses of which were in keeping with the provisions of Venezuelan legislation on nationality. Alien wives of Venezuelan citizens could either acquire their husbands' nationality or retain their own and Venezuelan women who married aliens retained their nationality. The dissolution of the marriage did not affect the nationality of the spouses or of the children. The Venezuelan delegation would vote against the amendments submitted by the United Kingdom.

Mrs. SAYERS (United Kingdom) stated that the USSR representative did not seem to have understood the constitutional requirements which had prompted the United Kingdom to propose its amendment. As she had said on several occasions, the United Kingdom and the colonies had a single citizenship, but the other territories for whose international relations the United Kingdom Government was responsible had their own nationality laws and the United Kingdom Government could not impose commitments on them. It was precisely to enable extension of the convention to those territories if they so wished that the United Kingdom had proposed its amendment.

(Mrs. Sayers, United Kingdom)

The article of the draft Covenant on Human Rights to which the USSR representative had referred was constitutionally unworkable, for it would mean imposing obligations on the territories without their having been consulted beforehand. The USSR representative could surely not think that to fail to consult those territories or to conduct a mockery of consultation would promote the development of their inhabitants' political consciousness in accordance with article 73 (b) of the Charter.

Miss POA SWEN TSENG (China) said that she would support the Cuban draft convention, the provisions of which were in keeping with Chinese legislation on nationality, under which an alien woman marrying a Chinese acquired Chinese nationality. Similarly, wives of naturalized Chinese and their children acquired Chinese nationality unless the law of their country of origin contained any provision to the contrary. Chinese women who married aliens were free to retain Chinese nationality or to renounce it. If there was a divorce, they could retain Chinese nationality. In other words, marriage did not affect the right to acquire the nationality of choice.

With regard to the amendments proposed by the United States, she thought it would be better to retain the existing title of the draft convention, which was more in line with the Commission's terms of reference.

Mrs. NOVIKOVA (Byelorussian Soviet Socialist Republic) stated that her country did not allow any form of discrimination on grounds of sex in the matter of nationality. Her delegation was therefore interested in the Cuban draft convention, which contained positive provisions and, as the USSR representative had pointed out, might serve as a basis of discussion. She, too, felt that the question of the nationality of married women must be distinguished from the problem of nationality as a whole, which was not within the Commission's purview.

Considering that the convention should be open to all States for signature and accession, she proposed that all the words following the words "and by any State" in article 4, paragraph 1, of the Cuban draft should be deleted and that the word "other" should be inserted before the word "State". To bring the

(Mrs. Novikova, Byelorussian SSR)

Cuban draft resolution into conformity with the new wording, the phrase following the words "and by non-member States" in the operative part should also be deleted and the words "containing the following preamble and articles" should be added after the words "the nationality of married women".

Referring to the United Kingdom amendment (E/CN.6/L.164) and the reasons adduced by the United Kingdom representative at the 187th meeting against the application of the convention to Trust and Non-Self-Governing Territories, she stated that there was ample evidence of the fact that the peoples of those Territories wished to express themselves freely and to apply the recommendations of United Nations organs for themselves. The United Kingdom representative's argument that the Governments of those Territories should be consulted was based on the mistaken idea, often expressed in the United Nations, that those Territories were not yet sufficiently advanced to understand their own problems and to be self-governing. The United Kingdom amendment did not take into account either the facts of the matter or the demands of the peoples of those Territories; as the USSR representative had said, the Commission should reject it.

Mrs. SAYERS (United Kingdom) pointed out that the Byelorussian representative had spoken in favour of the United Kingdom amendment, since the United Kingdom did indeed consider that the Territories in question were developing and were entitled to be consulted. That was the object of the proposed article.

Mrs. NOVIKOVA (Byelorussian Soviet Socialist Republic) stressed that she had meant that the Territories should be able to express their own opinions independently.

Miss TSENG (China) explained that she had expressed no objection to the substance of the United States amendments; she had simply meant that she saw no need to change the title of the convention on which the Commission had been in agreement for three years.

The CHAIRMAN asked the Swedish representative whether his delegation maintained the sub-amendment to the Australian amendment (E/CN.6/L.163) which it had proposed orally at the 190th meeting.

Mr. CARBONNIER (Sweden) replied that his delegation would not press the amendment but would reserve the right to revert to the matter when the Commission took up the separate articles of the draft convention.

The CHAIRMAN, speaking as the representative of the Dominican Republic, said that her delegation would vote in favour of the Cuban draft resolution (E/CN.6/L.153 and Corr.1).

In the conviction that the right to nationality was an inalienable human right and a principle of elementary justice, which was respected in Dominican legislation, her delegation had always defended the draft convention on the nationality of married women. As the Dominican delegation had already expressed its views on the matter at previous sessions of the Commission, she would not make any new statement of principle.

Mr. FORYS (Poland) supported the amendments submitted by the USSR and Byelorussian delegations and shared their opinion on the United States and United Kingdom amendments.

Miss MAÑAS (Cuba) pointed out that the draft convention presented by her delegation had been formulated in the light of the observations the Governments had submitted on the earlier draft. The title chosen seemed to be the one on which there would be the widest measure of agreement. Moreover, it was important that the Commission should not exceed its terms of reference and should restrict itself to a study of the nationality of married women.

She regretted she could not accept the United States amendment (E/CN.6/L.165), which would take the question back to the point it had reached at the seventh session. So far as the United Kingdom amendment (E/CN.6/L.164)

(Miss Mañas, Cuba)

was concerned, she thought that the provisions relating to territorial application which usually appeared in international instruments such as the convention must be discussed by a higher organ of the United Nations. The Commission could therefore adopt the draft convention and leave it to a higher authority to decide the final wording.

In regard to the Australian amendment (E/CN.6/L.163), she had thought that article 3 of the draft convention covered all the problems which national legislation on the naturalization of married women could involve; on the other hand, the Australian text seemed to meet with the approval of the majority and it was substantially in keeping with her Government's observations. She was therefore prepared to accept it as a substitute for the article 3 proposed by her delegation, in order to ensure that the draft convention was adopted by as many votes as possible in the Commission.

Mrs. DALY (Australia) thanked the Cuban representative and said that, although she intended to submit slight amendments to other articles, she was now able to support the draft convention without reservations.

Mrs. SAYERS (United Kingdom) said that she would be pleased to follow the Cuban representative's suggestions regarding her amendment (E/CN.6/L.164), but she would like the text of the amendment and the comments she had made regarding reservations to appear in the Commission's report. She would also like to know what the Cuban representative thought of her comments on articles 1 and 2 of the draft convention.

The CHAIRMAN said that the United Kingdom representative's request would be noted.

Miss MAÑAS (Cuba) said that she would wait to see the text of the Byelorussian amendments before replying to the United Kingdom representative.

The CHAIRMAN said that, as the Byelorussian amendments would be distributed at the beginning of the afternoon, the Commission would not vote on the Cuban draft resolution until the morning meeting on Friday, 25 March. At the afternoon meeting the Commission would take up item 8 of the agenda.

(The Chairman)

At her request the Secretary-General had agreed to address the Commission in connexion with item 12 of the agenda: the participation of women in the work of the United Nations and the specialized agencies. In order to give the Secretary-General sufficient time to make his arrangements in the light of his other engagements, she proposed that the Commission should consider the matter on Monday, 28 March, before the other items on its agenda.

It was so agreed.

The meeting rose at 12.45 p.m.