



Convention on the Elimination
of All Forms of Discrimination
against Women

Distr.
GENERAL

CEDAW/C/SR.218
28 January 1993

ORIGINAL: ENGLISH

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Twelfth session

SUMMARY RECORD OF THE 218th MEETING

Held at the Vienna International Centre, Vienna,
on Monday, 25 January 1993, at 2.30 p.m.

Chairperson: Ms. CORTI

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Convention on the Elimination of All Forms of Discrimination against Women
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V.93 81090 4386E

Distr.: 1 February 1993

The meeting was called to order at 2.35 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE
CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN
(continued)

Initial and second periodic reports of Kenya (CEDAW/C/KEN/1-2) (continued)

1. At the invitation of the Chairperson, Ms. Oeri (Kenya) took a place at the Committee table.

Article 12

2. Ms. ABAKA asked whether there was a system of traditional birth attendants in Kenya. If so, were they offered any training to upgrade their skills and make their practices safer?

3. Ms. AKAMATSU referred to paragraph 63 of the report, according to which the average life expectancy of women in Kenya had improved dramatically. She assumed that the life expectancy of men had likewise improved and wondered if any statistics were available. Paragraph 63 of the report also stated that the circumcision of females had been discouraged; and in the supplementary information provided to the Secretariat it was stated, in respect of article 4 of the Convention, that the circumcision of girls by certain local groups had been banned by presidential decree. She would welcome more detailed information on that point.

4. Ms. BUSTELO GARCIA DEL REAL inquired about the health of young women who became pregnant at an early age. Did young men and women have ready access to contraceptive measures and information about them? It was especially important to ensure that they had access to condoms, which helped to prevent AIDS as well as pregnancy. She wondered whether teenaged single mothers suffered from the disapproval of their families and of society at large. Pregnant teenagers were especially prone to experience difficulties in continuing their education, as well as other social disadvantages, and to enter into injudicious early marriages. She asked what legislation existed to govern abortions, whether pregnant teenagers were able to obtain abortions, and what statistics were available on abortions, both licit and clandestine.

5. Ms. QUEDRAOGO asked whether the districts referred to in the report were provinces, or of groups of departments or villages. The availability of health-care facilities, as described in the report, could only be understood in the light of that information. AIDS posed a serious threat to the health of women, and childbirth in African villages often took place in the absence of proper health-care facilities, leading to the spread of disease. Were prenatal clinics available in all villages; if not, was there a traditional midwifery service? The report contained no information on the causes of death for children and women. Concerning female circumcision, the representative of Kenya had said that the practice was now discouraged, but it was not clear what measures were being taken against it. Were the programmes adopted to combat the practice merely awareness campaigns, or did they provide for penalties? Were there any statistics concerning numbers of circumcised females? She also wondered whether there were any food taboos in Kenya harmful to the health of women and girls, such as the prohibition against eggs which affected girls in Burkina Faso. What was being done to safeguard the nutritional health of women in Kenya, including pregnant women?

6. Ms. BRAVO NUÑEZ DE RAMSEY asked what sex education was given within the educational system in Kenya, and what legal limits were imposed for abortion. What percentage of the total female population had been circumcised? What was the extent of pre- and postnatal care?

7. Ms. KHAN inquired about the availability of legal abortion. As for female circumcision, according to the information given it had been banned in June 1990; however, unofficial sources suggested that the practice was widely prevalent, and she wondered why the ban was not enforced.

8. Ms. LIN Shangzhen also wondered whether the decree banning female circumcision had proved effective. If it had, additional information about Kenya's experience in that connection would be useful to other regions.

Article 13

9. Ms. AKAMATSU referred to the statement in paragraph 66 of the report concerning the payment of family and other benefits. Married women appeared to be discriminated against, and she wondered what steps the Kenyan Government intended to take to remedy the situation.

Article 14

10. Ms. AKAMATSU referred to the statement, at the end of paragraph 77 of the report, that most women did not qualify for receipt of agricultural credit, although it was they who managed agricultural holdings in the absence of their husbands. Was the Kenyan Government taking any steps to improve the situation?

11. Ms. BRAVO NUÑEZ DE RAMSEY said it was evident from the report that rural women in Kenya were discriminated against and that they were not even informed of their rights. Women represented the majority of the rural population, yet credit facilities were not available to them because they were not landholders. Paragraph 77 of the report seemed therefore to contradict the statement, in paragraphs 14 and 15, that the enactment of the Law of Succession Act in July 1981 gave men and women equal rights to inherit, own and dispose of property.

12. Ms. GARCIA-PRINCE congratulated the Government of Kenya on its efforts to improve the situation of rural women, especially by subsidizing women's organizations. She wondered, however, whether women's substantial contribution to food production was fully reflected in the official statistics. What was being done to remedy the inequitable pattern of land ownership, so that women could own, inherit and dispose of land on an equal footing with men?

Article 15

13. Ms. AKAMATSU said that according to paragraph 85 of the report, the law of domicile in Kenya discriminated against women; were there any proposals to change it?

14. Ms. ILIC asked whether women in Kenya resorted to the courts to obtain their rights. If so, were they successful? If not, was the failure to do so attributable to ignorance or to pressure from their families or society? She

noted that, according to the supplementary information provided by Kenya, section 82 of the Constitution allowed for discriminatory rules respecting burials, which were governed by the customary law of the men. She wondered whether any information or advice was offered to both men and women to help them to depart from customary practices.

15. Ms. QUINTOS-DELES said that the interrelationship between articles 15 and 16 of the Convention was crucial in eliminating discriminatory provisions. The law of domicile in Kenya was discriminatory and undermined the de jure equality of women in matters of guardianship, wardship, trusteeship and adoption of children, since domicile was automatically decided in favour of the father. The Government of Kenya must be asked to look seriously at that issue, which had serious implications for the status of women in the family.

Article 16

16. Ms. CARTWRIGHT wondered whether the Government of Kenya was taking any steps to unify the laws governing marriage and divorce. According to the statement by the representative of Kenya, efforts to harmonize the family law system had been under way since 1974, and a revised Marriage Bill was now due for adoption. She wondered why the process had taken so long.

17. Ms. BRAVO NUÑEZ DE RAMSEY noted that many marriages in Kenya were contracted according to customary law, which was discriminatory in its effects. Girls who married under customary law were presumed to have given their consent to a polygamous marriage. She hoped the Government of Kenya would take steps to eliminate the consequent disadvantage for women.

18. Ms. AOUIJ said that article 16 of the Convention provided a yardstick which indicated the status of women in society and the level of progress within that society. Equality and development were interlinked, since factors promoting equality also promoted development, and vice versa. According to the representative of Kenya, Islam was the religion of approximately half the population. Her own approach to article 16 was inspired by the fact that she too came from a Muslim African country. According to Islam, women had the right to life, liberty, education, respect and love in their roles as unmarried women, wives and mothers. Polygamy was sanctioned by Islam, but the general rule was monogamy. Marriage required the woman's consent, and divorce was permitted subject to certain guarantees. The right of women to manage their property was protected; although the husband was regarded as the head of the family, his status derived more from the division of labour within the family than from any special advantages accorded to either sex. Indeed, the principle of Islam was equality. However, the decision-making powers enjoyed by men had enabled them to follow the letter rather than the spirit of the law, thus reducing the rights of women. The result was that a girl's consent to marriage was not always insisted upon, polygamy prevailed, and women required their husband's consent in order to obtain or transfer property, contrary to their rights under Islamic law. The socio-cultural developments in Kenyan society, with the significant role now played by women in urban life, were bound to bring great changes in values and attitudes; standards which had applied in 1970 were no longer adhered to in the 1990s.

19. The woman's role in the family and the nature of the relationship between the spouses were changing, obedience being replaced by mutual respect. Women were contributing to household expenditure and enjoyed the same rights within the family in respect of their children. Their role was bound to be reflected in the country's legislation. She wondered to what extent the Government of Kenya was engaged on the the path of reforming family law. In the supplementary information provided, it was said that the Convention failed to fully consider the role of cultural practices which hindered women's enjoyment of certain rights. The Convention was indeed an innovative instrument, being the first international instrument to recognize the impact of traditional culture on the conduct and outlook of men and women, and its role in restricting fundamental rights and women's exercise of those rights. Women themselves were partly responsible for the discrimination they continued to suffer in daily life. If it was to be eliminated, two changes must come about. First, women themselves must be determined to take charge of their own destinies, and to show that the process of development called for their active participation in society. Secondly, those in power must demonstrate the political will to overcome prejudice and to eliminate discriminatory laws.

20. The CHAIRPERSON thanked the representative of Kenya for presenting her country's report. The numerous questions by members of the Committee testified to their keen interest in the situation of women in Kenya and their sense of solidarity with them. It was, of course, difficult to understand fully the situation of women in a country where different legislative systems governed the daily lives of women, including their private lives. Articles 9, 15 and 16 all dealt with the family lives of women, and the implementation of those articles was a measure of the extent to which de jure and de facto equality had been achieved.

The meeting rose at 3.15 p.m.