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COMMISSION ON THE STATUS OF WOMEN

Seventh Session

SUMMARY RECORD OF THE HUNDRED AND THIRTIETH MEETING

Held at Headquarters, New York,  
on Thursday, 19 March 1953, at 15.10 p.m.

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E/CN.6/L.93. E/CN.6/L.94) (continued)

PRESENT:

<u>Chairman:</u>	Miss BERNARDINO	Dominican Republic
<u>Rapporteur:</u>	Begum ANWAR AHMED	Pakistan
<u>Members:</u>	Daw OHN	Burma
	Mrs. NOVIKOVA	Byelorussian Soviet Socialist Republic
	Mrs. GALLO-MULLER*	Chile
	Miss TSENG	China
	Miss MAÑAS	Cuba
	Mrs. LEFAUCHEUX	France
	Mrs. GUERY	Haiti
	Mrs. TABET	Lebanon
	Miss PELETIER	Netherlands
	Miss YOUNG	New Zealand
	Mrs. WASILKOWSKA	Poland
	Mrs. POPOVA	Union of Soviet Socialist Republics
	Mrs. WARDE	United Kingdom of Great Britain and Northern Ireland
	Mrs. HAHN	United States of America
	Mrs. SANCHEZ de URDANETA	Venezuela
<u>Also present:</u>	Miss FUJITA	Japan
	Mrs. de CASTILLO LEDON	Inter-American Commission of Women
	Miss ALWARD	Women's Overseas Service League
<u>Representatives of specialized agencies:</u>		
	Miss FAIRCHILD	International Labour Organisation (ILO)
	Mr. MYRDAL	United Nations Educational, Scientific and Cultural Organization (UNESCO)

Representatives of non-governmental organizations:

Category A:

Mr. WAGNER	International Confederation of Free Trade Unions (ICFTU)
Miss KAHN	World Federation of Trade Unions (WFTU)
Mrs. BERESFORD-FOX	World Federation of United Nations Associations (WFUNA)

Category B and Register:

Mrs. VERGARA	Catholic International Union for Social Service
Mrs. MAHON	International Alliance of Women
Mr. LONGARZO	International Conference of Catholic Charities
Mrs. CARTER ) Mrs. FREEMAN )	International Council of Women
Mrs. HYMER	International Federation of Business and Professional Women
Miss ROBB	International Federation of University Women
Miss LA LONDE ) Miss SMITH )	International Federation of Women Lawyers
Miss WOLLE-EGENOLF	International League for the Rights of Man
Mrs. EVANS	Liaison Committee of Women's International Organizations
Mrs. MCGIVERN	Pax Romana
Mrs. ANDERSON ) Mrs. PALMER )	World's Young Women's Christian Association
Mr. GALDY	Young Christian Workers
Mrs. TENLSON-WOODS	Chief of the Status of Women Section
Mrs. GRINBERG-VINAVER	Secretary of the Commission

Secretariat:

STATUS OF WOMEN IN PRIVATE LAW (E/CN.6/185 and Add.1-9, E/CN.6/208, E/CN.6/186 and Add.1-3, E/CN.6/L.91/Rev.1, E/CN.6/L.93 and L.94) (continued)

Mrs. HAHN (United States of America) wished to comment briefly on two aspects of private law: the rights of the married woman who was in paid employment and the rights of the married woman who stayed at home. In the United States in the course of the past fifty years the position of the married woman who worked had improved greatly with regard to the right to dispose of her earnings. They were her own property, either - as was the case in most states - by virtue of express statutory provisions or - as happened in other states - through custom or practice. Moreover, the husband had the primary responsibility for providing for the family out of his property and earnings. In some states the wife had a secondary liability but usually her earnings or her other property were not liable for family necessities, save with her express consent. Two of the eight states where the community property regime was in force permitted the married woman to administer her own earnings, while in the other six such earnings were community property and were administered by the husband.

She contrasted that new state of affairs with the very different situation which had existed under common law a century earlier. At that time the woman had been unable to work outside her household without her husband's consent. Her earnings had belonged to her husband and could have been attached by his creditors. Even if she had survived him, whatever she had earned during married life had become part of his estate.

The situation had greatly improved. Since 1900 the proportion of married women who worked had steadily grown; their new legal status had certainly been an important factor in that development.

Nevertheless, it should not be forgotten that the great majority of married women in the United States were not gainfully employed outside the home. Although the number of married women who had paid employment continued to increase, they were still a minority of married women in the population. Thus, in 1951, only 27 per cent of all married women were currently employed, as against 50 per cent of the single women and approximately one third of the widowed or divorced women. The following was the usual cycle:

a woman worked until her marriage, gave up her employment at the time of the marriage or the birth of a child, and resumed it when her children were grown up or her husband died, or if there was a divorce.

The various changes in the country's economic and social structure did not alter biological factors, and the law in the United States took into account the respective roles of husband and wife by stipulating that the husband was primarily responsible for providing for the family. In all the states, with the exception of the eight states where the community property regime prevailed, the husband was obliged by law to provide for household expenses out of his earnings and property. In twenty-one states the wife was also obliged to do so, but in a secondary capacity only. In eleven states, she had to support her husband out of her own property if he was incapacitated or without means. In the eight states in which the community property regime was in force, both spouses had to provide for the family out of the community property, but that did not relieve the husband, as head of the family, of his duty to administer the property wisely.

She hoped that her statement had shown that the laws governing the status of married women in the United States were in line with the contemporary economic and social situation. They granted the married woman the right to work outside her home and to take part freely in the country's economic life, but they recognized her special status as wife and mother and made the husband primarily responsible for the welfare of the family unit.

The CHAIRMAN drew the Commission's attention to the revised draft resolution presented jointly by the delegations of France, Lebanon and Pakistan (E/CN.6/L.91/Rev.1).

Mrs. LEFAUCHEUX (France) explained that the authors of the draft resolution had not considered it necessary to quote the text of article 16 of the Universal Declaration of Human Rights, since it was well known.

Mrs. POPOVA (Union of Soviet Socialist Republics) thought, on the contrary, that the draft resolution as it stood was rather vague and would be more forceful if it reproduced the relevant parts of article 16. The article contained a very important statement of principle which could not be repeated too often. The USSR delegation formally proposed, therefore, that the text of article 16 should be included in the second paragraph of the joint draft resolution.

Miss TSENG (China) was opposed to that suggestion. Although the first two paragraphs of article 16 of the Universal Declaration of Human Rights were particularly connected with the status of women, the third paragraph was more general in scope and to reproduce it in full would be to defeat the purpose.

Mrs. WASILKOWSKA (Poland) supported the USSR amendment, which would have the double effect of reaffirming a basic principle and making the draft resolution much clearer.

Mrs. LEFAUCHEUX (France) said that she would abstain in the vote on the USSR amendment, because the insertion of the text of article 16 in the draft resolution would only make the latter unnecessarily cumbersome.

The CHAIRMAN put to the vote the USSR amendment, to the effect that the text of article 16 of the Universal Declaration of Human Rights should be included in the second paragraph of the joint draft resolution.

The USSR amendment was adopted by 7 votes to 2, with 8 abstentions.

The joint draft resolution, as amended, was adopted by 12 votes to none, with 5 abstentions.

Mrs. LEFAUCHEUX (France), speaking in explanation of her vote, stated that the French delegation did not consider that in proposing the inclusion of article 16 of the Universal Declaration of Human Rights in the covenant on civil and political rights the Commission was in any way upholding divorce. It was her view that marriage was indissoluble; nevertheless, divorce existed

and the least that could be done was to ensure that the woman was not left defenceless or with less means of defence than her husband.

Miss MAÍAS (Cuba) shared the French representative's views. The Cuban delegation regarded the dissolution of marriage as a means which should be available when no other solution of an unhappy situation was possible, whether that situation had been brought about by the spouses themselves or had arisen independently of their will. Cuban law attached great importance to family unity and it was only because they had been considered quite unavoidable that provisions for the dissolution of marriage had been included in it. Members of the Commission, in particular Gabriela Mistral, had spoken against divorce; there could be no doubt that all the members were aware of the seriousness of the problem.

The CHAIRMAN invited the Commission to consider the draft resolution presented jointly by the delegations of Chile, Cuba, the Dominican Republic, France and Haiti (E/CN.6/L.93).

Mrs. LEFAUCHEUX (France) presumed that several delegations would submit draft resolutions on specific points in the field of private law. The sponsors of the present draft resolution had wished to emphasize the various points regarding which the Commission thought that existing legal systems needed amendment, in order to do away with discriminatory measures against women. Other members could add to the draft resolution, so that it would become a general text applicable to all the questions relating to the status of women in private law.

Miss MAÍAS (Cuba) said that a draft resolution presented jointly by the delegations of Cuba, France and Venezuela (E/CN.6/L.94) would be circulated in the course of the meeting.

The CHAIRMAN proposed that, in the circumstances, the meeting should be suspended until the new text had been circulated.

The meeting was suspended at 3.50 p.m. and resumed at 4.20 p.m.

The CHAIRMAN invited members of the Commission to comment on the draft resolutions contained in documents E/CN.6/L.93 and E/CN.6/L.94.

Mrs. GALLO-MULLER (Chile), speaking on a point of order, said that the word esposos in the Spanish text of document E/CN.6/L.94 should be replaced throughout by conyuges. From a strictly legal point of view, at least in Chile, the word esposos was used only with reference to a contrato de esponsales, or engagement to marry, whereas the word conyuges applied to the contrato de matrimonio, or the marriage contract proper.

The CHAIRMAN said that she understood the Chilean representative's objection, which would be duly taken into account in the final drafting of the draft resolution in question.

Mrs. WARDE (United Kingdom), referring to the draft resolution in document E/CN.6/L.93, congratulated the authors on what seemed at first sight a perfectly satisfactory text. She approved in particular of sub-paragraph (b) of the operative part of the resolution which the Commission was to recommend for adoption by the Economic and Social Council.

She proposed, however, that paragraph of the operative part of the whole resolution, in which the Secretary-General was requested to prepare comparative studies of the problems enumerated in the draft resolution and related questions in family law and property rights, should be deleted. The Commission had already a vast body of documents before it and further reports would be added when the Secretary-General received communications from Governments which had not yet replied to the questionnaire. That being so, there seemed no point in overburdening the Commission with documents which it might not have time to study properly.

Miss PELETIER (Netherlands) did not agree with the United Kingdom representative. The non-governmental organizations which had not yet sent their replies should be given the opportunity to do so and those which had sent information the opportunity to send more. The Commission must bear in mind that



its efforts would remain fruitless so long as they were not supported by public opinion in all countries; it was common knowledge that new legislation was useless if public opinion did not see the need for it and did not understand its implications, and that an old law was never really abrogated except by the will of the public. In many countries public opinion was not yet ready for some of the reforms which the Commission wished to bring about indirectly; the non-governmental organizations were in a position to consult, educate and direct public opinion and the Commission could not fail to benefit from the information which they would be able to supply. She would therefore like a sentence or a short paragraph to be added at the end of the preamble to the draft resolution, to the effect that non-governmental organizations should be given an opportunity to send in additional information, which would be transmitted to the Commission.

In reply to a question from Mrs. HAHN (United States of America), Mrs. GRINBERG-VINAVER (Secretary of the Commission) explained that so long as it was merely a matter of the Secretariat continuing to compile information sent in by Governments or non-governmental organizations in reply to the questionnaires and that seemed to be the object of the Netherlands' representative's suggestion the Secretary-General did not need any special authorization. The Secretariat automatically collected information as it came in and new compilations were published in the form of addenda to the reports already submitted to the Commission.

If, on the other hand, the Commission wished the Secretary-General to prepare new reports on certain specific questions, such as the right of women to carry on an occupation or profession without the authorization of her husband, matrimonial regimes or the right of the mother to exercise parental authority, it would have to make a specific request to that effect, which would be the case if it adopted the draft resolution in its present form.

Mrs. LEFAUCHEUX (France) proposed that the words "the inability of the wife to participate in the choice of the home"<sup>1/</sup> should be added in the second

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<sup>1/</sup> Provisional translation.

paragraph of the preamble of draft resolution E/CN.6/L.93, after the words "the limited authority of the mother over her children".

Mrs. HAHN (United States of America) said that her delegation had no objection to paragraph (a) of the operative part of the draft resolution recommended for the adoption of the Economic and Social Council, in so far as it referred to reciprocal rather than identical, rights and duties of the spouses. Paragraph (b), on the other hand, seemed to raise a number of important questions and required some clarification; she would therefore prefer the Committee on Resolutions to examine the text before the Commission took a decision on it.

Miss PELETIER (Netherlands) remarked that the draft resolution in document E/CN.6/L.94 also raised a number of very complex and interesting questions. The matrimonial regime which the text recommended for adoption would provide for separation of property during marriage and the constitution, on the dissolution of marriage, of masse commune comprising the entirety of the goods acquired by the two spouses during marriage, to be equally divided between them or their heirs. There was, for example, the question whether an inheritance received by one of the spouses during marriage would become part of the joint property, or whether the masse commune would include only the property which the two spouses acquired jointly. Hence that draft resolution, too, seemed to require some clarification and the Commission should study it very carefully before taking a decision on it.

Mrs. WARDE (United Kingdom) wished to know whether the words "dissolution of marriage" referred to divorce alone or whether they also covered dissolution through the death of either spouse.

The CHAIRMAN thought that, in view of the many questions to which the two draft resolutions gave rise, it would be better to send them to the Committee on Resolutions before the Commission acted on them. She suggested that the Committee should meet on Friday, 20 March, at 10.30 a.m. and she hoped that after that meeting representatives who did not feel they could support the

resulting texts would submit one or more alternative texts of their own. She also proposed that representatives who were not members of the Committee on Resolutions, especially the authors of the two texts in question, should participate in the work of the Committee if they so desired, without, of course, the right to vote.

It was so decided.

Mrs. LEFAUCHEUX (France) thought it would facilitate the work of the Committee on Resolutions if she explained forthwith the reasons that had given rise to the draft resolution in document E/CN.6/L.94.

In some countries, France for one, the community property regime provided that the husband alone administered the property; in other words, for the duration of the marriage the wife had no rights to the joint property or even to its income. On the dissolution of the marriage - and that, she added, in reply to the United Kingdom representative, applied both to divorce and to dissolution by the death of either spouse - the wife was entitled to one half of the property. On the other hand, under the separate property regime the wife was free to dispose of her own property but on the dissolution of the marriage she was not entitled to any property acquired jointly during marriage.

In order to eliminate the unequal treatment to which women were subjected under both regimes, it would be well to establish a regime which would provide for the separation of property for the duration of the marriage and for the equal division between the spouses of the masse commune on the dissolution of the marriage.

In conclusion, she stated that in France community property was the statutory regime, the law leaving the prospective spouses the possibility of establishing by contract whatever matrimonial regime they desired. Considering, however, that approximately 96 per cent of the prospective spouses did not draw up pre-nuptial contracts, either because they did not think of it or because the woman did not dare to ask for one for fear that her request might be taken as an indication of distrust of her future husband, it was clear that, in the case of

France, at any rate, some amendment was necessary in the legal system if women's interests were to be protected.

The meeting rose at 5.20 p.m.