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COMMISSION ON THE STATUS OF WOMEN

Seventh Session

SUMMARY RECORD OF THE HUNDRED AND TWENTY-NINTH MEETING

Held at Headquarters, New York,
on Thursday, 19 March 1953, at 11 a.m.

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PRESENT:

Chairman:

Miss PELETIER

Netherlands

(later)

Miss BERNARDINO

Dominican Republic

Rapporteur:

Begum ANWAR AHMED

Pakistan

Members:

Daw OHN

Burma

Mrs. NOVIKOVA

Byelorussian Soviet Socialist
Republic

Mrs. GALLO-MULLER

Chile

PRESENT: (cont'd)Members: (cont'd)

Miss TSENG	China
Miss MANAS	Cuba
Mrs. LEFAUCHEUX	France
Mrs. GUERY	Haiti
Mrs. TABET	Lebanon
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

Also present:

Mrs. KIEP	Germany
Miss FUJITA	Japan
Mr. HORVAT	Yugoslavia
Mrs. de CASTILLO LEDON	Inter-American Commission of Women

Representatives of specialized agencies:

Mrs. FAIRCHILD	International Labour Organisation (ILO)
Mrs. MYRDAL	United Nations Educational, Scientific and Cultural Organization (UNESCO)

Representatives of non-governmental organizations:Category A:

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

Representatives of non-governmental organizations: (cont'd)

Category B and Register:

Mrs. MAHON) Mrs. WOODSMALL)	International Alliance of Women
Mrs. CARTER	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
Mr. WOLLE-EGENOLF) Miss de CASTILLO)	International League for the Rights of Man
Mrs. EVANS	Liaison Committee of Women's International Organizations
Mrs. MCGIVERN	Pax Romana
Mrs. SCHAEFER	World Union of Catholic Women's Organizations
Mrs. ANDERSON) Mrs. PALMER)	World's Young Women's Christian Association
<u>Secretariat:</u> Mrs. TENISON-WOODS	Chief of Status of Women Section
Mrs. GRINBERG-VINAVER	Secretary of the Commission

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

Mrs. NOVIKOVA (Byelorussian Soviet Socialist Republic) stated that the inferior status of millions of women in private law was a direct consequence of their economic, social and political inequality. The documentation prepared by the Secretariat showed beyond doubt that there was great discrimination against women in private law. The husband was usually recognized as the head of the family. He had the right to choose the family domicile and the wife was obliged to follow him. He had full control over her earnings or income and she could neither work nor carry on an independent business without his consent. In many countries, women were not permitted to contract mixed marriages or to exercise parental authority over their illegitimate children.

In her own country, however, women enjoyed full equality of political, economic and social rights and had the same status as men in private law. They had, in law and practice, equal rights with men to work, pay, leisure, education and social insurance and, thanks to many special measures of protection to motherhood and childhood and the vast, well-organized system of nurseries and kindergartens, were able to combine the role of mother with that of a fully-fledged member of society. Consequently, Byelorussian women took an active part in the legislative, executive and judicial organs of their country's Government. When they married, they and their husbands were equally free to choose the family name and domicile, to pursue an occupation, to dispose of their property and to supervise the education of their children. The basis of family life in her country was not the economic dependence and consequent subjection of the wife but sincere affection and joint responsibility for the happiness and the physical and moral welfare of the children. The family unit was greatly aided by the State, which since 1944 had paid out over out thousand million roubles in grants to unmarried mothers and mothers of large families. Lastly, women had the same rights as men with respect to

divorce but the husband had to contribute to the support of the children.

The discussion in the Commission had shown that, since the forms of discrimination against women in private law varied greatly from country to country, the problem should be solved at the national level by the States concerned. The Commission's action should be directed towards eliminating discrimination against women in the political, economic and social fields, since in the final analysis it was only through an improvement of the general status of women that their rights under private law could be increased.

Report on replies of non-governmental organizations to questions on the status of women in private law as to changes considered desirable in order to eliminate discrimination against women (E/CN.6/186 and Add. 1-3)

The CHAIRMAN read out the various questions contained in document E/CN.6/186 and invited representatives to comment on them.

Miss TSENG (China) said that under Chinese law either spouse could take the other's name and follow the other to his or her domicile. That equitable arrangement was surely preferable to giving both spouses the right to choose their domicile, since it was important for the children that their parents should live together.

Mrs. SCHAEFFER (World Union of Catholic Women's Organizations) regretted that her organization had not yet been able to obtain replies from all its affiliates to the questions contained in document E/CN.6/186. Several years previously, however, her organization had recommended that legislation in Member States should:

- (a) Recognize in fact the principle of the same moral law for both sexes;
- (b) Provide adequate measures so that women could never be deprived of her nationality and that, in case of marriage, her nationality would not be affected without her free consent. In the case of spouses of different nationality, provision should be made whereby either one might adopt the nationality of the other and reside with him or her in any country whatever. That provision should be made applicable also to displaced women;

(c) Use the concept of "co-operation" rather than "subordination" as the norm in legal measures regulating the respective rights and duties of husband and wife; and provide for the delegation of authority to the husband and father in those cases where discord between husband and wife seriously compromised the life of the family group, but always with the provision for the right of appeal on the part of the wife;

(d) Regulate property ownership in such a way that the administration and use of family property was guaranteed by the co-operation of both spouses;

(e) Recognize in man and woman equal rights with respect to guardianship and inheritance, including cases in which serious discord rendered legal separation necessary.

Miss Bernardino (Dominican Republic) took the Chair.

Mrs. LEFAUCHEUX (France) stated that she would shortly submit, possibly with other sponsors, draft resolutions calling for practical measures with regard to the reform of matrimonial regimes and the exercise by women of parental authority, the choice of the conjugal domicile and the right to engage in an occupation. She would then comment on those specific points rather than discuss generally the whole vast field of private law.

Mrs. GUERY (Haiti) said that marriage was by definition a union, one of the main purposes of which was to provide a home for the children. She therefore failed to see any reason for granting to the spouses the right to choose separate domiciles.

Report on property rights of women based on replies of governments to part II of the questionnaire on the legal status and treatment of women (E/CN.6/208)

Mrs. GRINBERG-VINAVER (Secretary of the Commission) introduced the Secretariat's report (E/CN.6/208). It was not a mere compilation, but an analysis of the information received from twenty-two Governments.

As indicated in Chapter I, the legal age of marriage was generally lower for girls than for boys, whereas the provisions regarding emancipation through marriage were the same for men and women in most of the countries in question. Where the right of legal action and capacity to contract - discussed in Chapters II and III respectively - were concerned, the situation in most of the countries was that single women of full age enjoyed equal rights with men, whereas married women required their husbands' consent. In some countries the capacity of married women to contract was limited in respect of certain types of contracts only.

Chapter IV dealt with the right to carry on a business, trade or profession. None of the countries studied had restrictions for single women of legal age; in the case of married women, restrictions existed in many countries but the situation varied considerably from one to another.

Concerning Chapter V, which dealt with property relations between husband and wife, she pointed out that in a few countries marriage did not affect the property rights of the spouses. In the other countries, however, the property relations between husbands and wives, unless otherwise provided in the marriage contract, were governed by a statutory matrimonial regime provided by law. Future spouses, however, were generally not aware of the fact that they could make special property arrangements in the marriage contract and once the contract was concluded the matrimonial regime could not be changed during marriage.

There were three prevalent types of regime: community property, dowry and separate property. Community property was by far the most widespread regime. Under it, the husband usually had the right to administer, use and dispose of the property; in recent years that right had been limited somewhat in some countries. Under the separate property system, husband and wife owned and administered separately the property acquired by each before and during marriage. The dowry regime was less frequently used nowadays and was not the statutory system in any of the countries reviewed.

Chapter VI dealt with the law of succession. The wife generally enjoyed the same rights as the husband. With very few exceptions, little distinction was made between the rights of husbands and wives to share in the estate of the spouse who died intestate, or in their respective rights to dispose of their property by will.

Mrs. SANCHEZ de URDANETA (Venezuela) quoted passages from the Civil Code of her country which provided for the community property regime. She pointed out that under that regime each spouse had the right to administer and dispose of his own property but could not give it away freely or renounce inheritances or legacies without the knowledge of the other.

Mrs. GALLOT MULLER (Chile), drawing attention to paragraph 14 of the Secretariat's report, stated that in Chile a woman lost her legal capacity upon entering marriage only if she accepted the community property system. A professional woman, however, retained her legal capacity even in that case.

Mrs. HYMER (International Federation of Business and Professional Women) said that her organization, which attached great importance to the status of women in private law as it affected property rights, welcomed the Commission's decision at its fourth session to initiate a survey on the position of women in various legal systems. The Federation had based its answer to the questionnaire on information supplied by its member federations, to which the survey had been of considerable value in familiarizing them with the exact status of women in their countries and the discriminatory provisions of codes and laws. The Federation had also taken that opportunity of making recommendations for changes in family law and property rights suggested by its branches in countries under various legal systems.

The Secretariat's compilation of replies from non-governmental organizations and governments was excellent and it was hoped that replies would in time be received from all Member States.

The Federation wished to emphasize some points on laws affecting property rights which were especially important to business and professional women. Owing to social and economic changes in many countries as the result of the two World Wars, the position of women had become one of greater participation but private law in many countries had not changed accordingly. The Federation recognized that the body of private law in the various countries had been influenced by tradition, national affiliations and religion but it did not

consider that those forces should retard the revision and adoption of civil codes and existing laws; such changes should be effected objectively.

Although it had been necessary to study existing legislation and to point out discriminatory provisions, in order to draw attention to desirable changes, it now seemed to be more useful to draft principles for the kind of laws which would give women the opportunity to use their full abilities. The French branch of the Federation had submitted such a principle on the relations between spouses; the United States branch had drafted a principle on relations between parents and children, stressing that the legal responsibility of fathers and mothers should be equal; and the Belgian branch of the Federation had made recommendations on property rights.

Such ideal laws could obviously not be enacted immediately and it was therefore necessary to consider the most constructive procedure for dealing with the existing laws, based on the concept of the father or husband as the head of the family. It was impossible to change that concept immediately in all countries but it was possible to attack its harmful consequences everywhere. In normal families, relations were based on mutual concern and laws could be interpreted to the mutual satisfaction of the parties concerned. The first step, therefore, should be to work for provisions safeguarding women's rights when family relations were not harmonious and for equal access to courts in settling differences.

Since the pattern of law in a free country depended on public acceptance, an important step was for non-governmental organizations to endeavour to secure acceptance of the idea of full equality and women's rights to engage in all businesses and professions. Acceptance would eventually lead to changes in the laws.

In order to assist women to secure equality in private law, the Commission might list the principles which should be included in the various categories of private law in order to give effect to the concept. Such an enumeration would serve as a guide to governments wishing to amend their laws and would be valuable to newly-independent countries in the process of determining their legislation. It would also help non-governmental organizations in their efforts to bring about the amendment of the laws of the various countries to

conform with the principle of full legal equality for women.

The CHAIRMAN drew the Commission's attention to the joint draft resolution submitted by France, Lebanon and Pakistan (E/CN.6/L.91) and expressed the hope that a vote could be taken on it at the present meeting.

Miss YOUNG (New Zealand) said that she was not prepared to vote on the draft resolution, since she was not familiar with the background of the subject and was not sure what place article 16 of the Universal Declaration would have in the covenant on civil and political rights.

Mrs. GALLO MULLER (Chile) and Mrs. NOVIKOVA (Byelorussian Soviet Socialist Republic) asked why the text of article 16, paragraph 1, of the Universal Declaration was not quoted in full. The contraction made it doubtful whether the Commission wished the whole principle embodied in article 16 to be incorporated in the covenant.

Mrs. LEFAUCHEUX (France) said that the co-sponsors' purpose in contracting the article had been to make the resolution as simple as possible. If there were any objections, however, she saw no reason why there should not be a reference to the article as a whole.

Begum ANWAR AHMED (Pakistan) and Mrs. TABET (Lebanon) agreed to that amendment.

Miss MANAS (Cuba) and Mrs. SANCHEZ de URDANETA (Venezuela) thought that the draft resolution should be discussed in the Resolutions Committee before a vote was taken.

Miss SCHAEFER (World Union of Catholic Women's Organizations), referring once again to the statement on women's rights within the marriage bond which her organization had submitted to the Commission some years earlier, quoted paragraphs (a), (c), (d) and (e) of the statement in connexion with the

joint draft resolution. The statement referred to the indissolubility of the marriage union and demanded equal rights of inheritance and guardianship in cases of dissolution of marriage by death and cases where legal separation was necessary.

Her organization had opposed the introduction of the term "dissolution" into the article of the Declaration dealing with marriage, on the grounds that it tended to sanction a disruptive influence in society. Millions of women continued to oppose the inclusion of the term in the covenant, because it was widely interpreted as a general approval of divorce by the United Nations. It was well known that divorce was a grave problem in many countries and endangered the social stability of nations; polygamy, too, existed in some countries, but there was not the same tendency to turn it into a system of ethics and to justify it by including it in documents of universal application.

Her organization therefore urged the Commission to amend the draft resolution by deleting any reference to dissolution of marriage and to propose instead a comprehensive article on the family for inclusion in the covenant, to read "All persons shall have equality before the law in all matrimonial matters".

The World Union further recommended that the recommendations should be made more comprehensive. The only existing reference to marriage in the draft covenants was in article 10, paragraph 3, of the covenant on economic and social rights. The World Union considered that there should also be a reference to it in the covenant on civil and political rights, with mention of equality before the law in all matrimonial matters and a statement to the effect that the family deriving from marriage was the natural and fundamental group unit of society and was entitled to protection by society and the State.

In conclusion, she expressed satisfaction at the Commission's decision to study the normal family as a basis for any conclusions on the status of women in private law.

The CHAIRMAN stated that a vote would not be taken on the joint draft resolution until the Secretariat had distributed the revised text. She appealed to members to submit their resolutions at the next meeting, so that the Commission could decide when the Resolutions Committee should meet.

REPRESENTATION OF THE WOMEN'S INTERNATIONAL DEMOCRATIC FEDERATION

The CHAIRMAN announced that she had appealed to the Secretary-General to intercede with the United States Government on the question of the entry visa of the representative of the Women's International Democratic Federation.

Mrs. POPOVA (Union of Soviet Socialist Republics) thanked the Chairman for her action and hoped that she would continue her efforts with a view to enabling the representative of that organization to come to the United States before the end of the Commission's session.

The meeting rose at 12.45 p.m.