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GENERAL

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COMMISSION ON HUMAN RIGHTS
Seventh session
Item 10 of the Provisional Agenda

RESOLUTION 154 D (VII) AND DECISION OF 2 AUGUST 1949 OF THE
ECONOMIC AND SOCIAL COUNCIL DEALING WITH THE FREEDOM TO
CHOOSE A SPOUSE, ETC.

Note by the Secretary-General

1. The Commission on Human Rights will recall that, at its sixth session, the Secretary-General brought to its attention resolution 154 D (VII) of the Economic and Social Council and its decision of 2 August 1949^{1/}, and that he also referred to the documents which the Council had decided to transmit to the Commission (E/CN.4/352). The Commission, at that session, decided to defer consideration of the subject to its seventh session (E/1681, paragraph 80). In this note the Secretary-General presents an account of the background of this subject.
2. The report of the second session of the Commission on the Status of Women (E/615) drew the attention of the Economic and Social Council, in paragraph 29, to the statement of aims adopted at the first session of that Commission, together with certain observations thereon. The statement of aims was as follows:

"Full equality in all civil rights, irrespective of nationality, race, language or religion, including

(a) Marriage - Freedom of choice, dignity of the wife, monogamy, equal right to dissolution of marriage ..."

The observations contained in the report of the second session of the Commission on the Status of Women were as follows:

"1. Monogamy. The Commission emphasizes its belief in the principles of monogamy and urges the United Nations to work for the acceptance of this principle.

"2. Freedom of choice. This right cannot be fully guaranteed unless it is

^{1/} Economic and Social Council, Official Records: Fourth Year, Ninth Session, Supplement No. 1, page 90.

recognized that individuals have the right to leave their country on marriage and to reside with the other partner in any country from which they cannot lawfully be excluded. The Commission therefore notes with satisfaction the terms of article 10 (2) of the draft declaration on human rights (document E/600) as recognizing a right essential for safeguarding freedom of choice in marriage."^{1/}

3. At its seventh session, the Economic and Social Council, after considering this paragraph of the report of the Commission on the Status of Women, adopted resolution 154 D (VII).^{2/} The Council deplored all legislative measures forbidding mixed marriages between persons differing as to colour, race, nationality, citizenship or religion, and in general such other legislative or administrative provisions restricting the freedom to choose a spouse (with the exception of restrictions based on family relationship, age, the nature of the functions being exercised, or other similar reasons) or denying to a woman the right to leave her country of origin and to reside with her husband in any other. It resolved to transmit the observations of the Commission on the Status of Women and the proposals of Chile and the Union of Soviet Socialist Republics on the subject submitted to it to the Commission on Human Rights.

4. The observations of the Commission on the Status of Women referred to in resolution 154 D (VII) of the Council have been set out in paragraph 2 above.

The Chilean proposal was as follows (E/AC.27/W.16):

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"Having considered the recommendations of the Commission on the Status

^{1/} Article 10 (2) of the draft Declaration as prepared by the Commission on Human Rights at its second session read: "Individuals shall have the right to leave their own country and, if they so desire, to acquire the nationality of any country willing to grant it." (E/600) As finally adopted by the General Assembly in article 13 (2) of the Universal Declaration of Human Rights this provision reads as follows: "Everyone has the right to leave any country, including his own, and to return to his country."

^{2/} See Resolution adopted by the Economic and Social Council during its seventh session, document E/1065, page 30.

of Women contained in Document E/AC.7/W.24, paragraph 10,^{1/} and,

"WHEREAS

"1. In accordance with the terms of Sections 3 and 4 of Article 1 of the Charter the essential purposes of the United Nations are, inter alia, to achieve international cooperation by promoting and encouraging respect for human rights and for fundamental freedom without distinction as to race, sex, language, or religion and the United Nations shall, for this purpose, be a centre for harmonising the actions of nations in the attainment of the common end;

"2. The signatories of the Charter have proclaimed their faith in the dignity and worth of the human person and it is therefore incumbent on them to eliminate from their legal and social institutions anything which conflicts with these principles;

"3. Monogamy and equality of rights between men and women in the case of dissolution of marriage should be considered as covered by the United Nations declaration of faith; and,

"4. The same considerations should apply as regards freedom to choose a spouse, it being noted that full enjoyment of this right requires that the contracting parties shall have the right to leave their country of origin and reside with their spouses in any other;

"RESOLVES

"TO RECOMMEND that Members endeavour as soon as possible to bring their legislation into line with the principles stated in the foregoing preamble."

The proposal of the Union of Soviet Socialist Republics was as follows

(E/AC.27/W.18):

"The Economic and Social Council

"Condemns the racist practice of forbidding mixed marriages between persons having the same citizenship, but differing as to colour, race, nationality or religion."

^{1/} Paragraph 10 of E/AC.7/W.24 is a reproduction of paragraph 29 of the Report of the second session of the Commission on the Status of Women in the form of a draft resolution for the Council.

5. At the ninth session of the Economic and Social Council, the representative of the Union of Soviet Socialist Republics presented a draft resolution on the Question of Nationality of Married Women (E/1472 and E/1472/Corr.1) in connexion with the report of the third session of the Commission on the Status of Women (E/1316). On 2 August 1949 the Council, "considering that by its resolution 154 D (VII) it had already drawn the attention of the Commission on Human Rights to the question raised by the draft resolution on the nationality of married women submitted by the representative of the Union of Soviet Socialist Republics (E/1472 and E/1472/Corr.1) and the amendments proposed thereto (E/1474 and E/1477), decided to take no action on the matter and to transmit to the Commission on Human Rights the records of the discussion thereon at the ninth session."^{1/}
6. The texts of the draft resolution presented by the Union of Soviet Socialist Republics at the ninth session of the Council and the amendments proposed thereto by Chile and Lebanon are reproduced below. The discussion concerning these proposals will be found in the summary records of the 316th and 317th plenary meetings of the Council.

Draft resolution of the Union of Soviet Socialist Republics (E/1472 and E/1472/Corr.1)

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"INSTRUCTS the Commission on the Status of Women to examine, at its next session, the question of measures for abolishing the practice that now prevails (e.g., in the United States of America and in the United Kingdom) of forbidding or restricting marriages between persons of the same nationality but of different race and colour, and for removing the unequal status of women in marriage (choice of domicile and profession, opportunities for occupying certain posts, divorce conditions, etc.);

"INSTRUCTS the Secretary-General to submit a report on this question to the next session of the Commission on the Status of Women."

Amendment of Chile to paragraph 1

"Delete the words 'that now prevails (e.g. in the United States of America and in the United Kingdom)'."

^{1/} Economic and Social Council, Official Records: Fourth Year, Ninth Session, Supplement No. 1, page 90.

"Add at the end of the paragraph the following: 'prohibition of marriage with men of other nationalities than their own, and to leave their own countries in order to live with their husbands in some other country'."

Amendment of Lebanon to paragraph 1

"Delete the words '....that now prevails (e.g. in the United States of America and in the United Kingdom)...', and read: '....the practice of forbidding....'."

"Delete the words '.... of the same nationality but of different race and colour', and substitute '.... of different race, religion or nationality....'."

7. The Secretary-General wishes to draw the attention of the Commission on Human Rights to a report on "Civil Liberties for Women" (E/CN.6/157), which he has submitted to the fifth session of the Commission on the Status of Women, at the latter's request. In this report the Secretary-General has presented to the Commission on the Status of Women, in a tabulated form the information supplied by Governments and non-governmental organizations since 1947 in reply to Section E, Civil Liberties, of the Questionnaire on the Legal Status and Treatment of Women. The questionnaire contained, among others, the following question: "Do men and women have free choice to marry any spouse regardless of nationality, race, religion or political affiliations." The replies to this question are shown in column nine of the table in document E/CN.6/157.
