



**Convention on the Elimination
of all Forms of Discrimination
Against Women**

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CEDAW/C/SR.92
7 April 1987

ORIGINAL: ENGLISH

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Sixth session

SUMMARY RECORD OF THE 92nd MEETING

Held at the Vienna International Centre, Vienna,
on Friday, 3 April 1987, at 10 a.m.

Chairperson: Ms. BERNARD

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Consideration of reports submitted by States parties under article 18 of the
Convention (continued)

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE
CONVENTION (continued)

Initial report of Greece (continued) (CEDAW/C/5/Add.28)

1. Ms. EL-TALLAWY suggested that the Committee should adopt the following general comment on the Greek report:

"The Committee thanks the Government of Greece and expresses its appreciation and satisfaction for the manner in which the report was prepared, particularly as regards its organization and its content as well as the detailed statistics which supported the information presented and its open acknowledgement of the obstacles women are still facing in Greece.

The Committee would like the next report of Greece to give further information about programmes directed in changing attitudes to the role of women and men in society."

2. After a discussion of the suggestion and of the procedure to be followed in this and other cases, the CHAIRPERSON said that, where consensus existed, a general comment could be adopted after consideration of a country's report. In the absence of a consensus, the comment would simply be that the report had been received and considered but that some members of the Committee had thought that more could have been done. Comments would be made on all the countries' reports, not just on that of Greece.

3. She asked whether the Committee could adopt the text suggested by Ms. El-Tallawy.

4. The text suggested by Ms. El-Tallawy was adopted.

Initial report of Spain (continued) (CEDAW/C/5/Add.30 and Amend.1)

5. At the invitation of the Chairperson, Ms. Bustelo and Ms. Frias (Spain) took places at the Committee table.

6. Ms. BUSTELO (Spain) said that members of the Committee had asked a large number of questions which she, together with her colleague from the Institute for Women's Affairs, would try to answer. She would begin by answering questions concerned with social and political matters.

7. With regard to article 5, she said that, before the establishment of the Institute for Women's Affairs, while the Centre Party, UCD, had been in power, a campaign had been conducted on television with the aim of inducing both men and women to change their attitudes towards differences in education for boys and girls and the division of work on the basis of sex. The Institute for Women's Affairs would be undertaking, in April and May, another campaign aimed at: (1) encouraging men to share domestic responsibilities; (2) encouraging parents to ensure that all kinds of professions were open to girls; and (3) encouraging young people to choose professions with an eye to the future rather than in line with tradition.

8. With regard to the stereotyped image of women in advertising, the Institute for Women's Affairs, in addition to participating in the presentation of a report to the Committee responsible for monitoring advertising on Spanish television, had

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(Ms. Bustelo)

suggested to the Government a number of criteria which should be respected in all official advertising. A draft law on advertising had not been presented to the parliament at the previous session but a new draft law would shortly be presented to it, which would enable women's organizations to bring cases of discriminatory advertising before the courts.

9. In Spain, under a law passed in 1981, parental authority was shared by both parents. In addition, under article 39.2 of the Constitution, all children, whether born in or out of wedlock, were equal in status.

10. The Institute for Women's Affairs came under the authority of the Ministry of Culture because, at the time that the Spanish Socialist Party (PSOE) had won the election, a subdirectorate for women existed in that Ministry. That subdirectorate formed part of the Ministry of Culture because, at the time that the Women's Section of the Falange was broken up, with the restoration of democracy, a small number of its staff had been transferred to that Ministry. The present situation therefore had nothing to do with machismo and she believed that, before the end of the present parliament, the Institute for Women's Affairs would be transferred to another ministry, although it had not yet been decided to which one.

11. Domestic work was performed by women, with very little assistance from their husbands; the latter helped, though to only a very limited extent, in looking after children, in shopping and in taking rubbish out. That was what was shown by studies carried out by the Centre for Sociological Investigations. In the same way, very few men took any interest in questions of equality for women, but increasing numbers of articles were being published in the press on the subject of women's new role.

12. The hierarchy of the Catholic Church in Spain was very conservative with regard to women. However, many Spanish Catholics were more advanced than their bishops, particularly with regard to the use of contraceptives and the right to abortion, as shown by the results of the investigations conducted in those fields. In 1979, 68 per cent of women had described themselves as practising Catholics, but in 1986 the figure had fallen to 56 per cent. The proportion of non-practising Catholics had increased from 25 per cent in 1979 to 37 per cent in 1986. The proportion of women without religious beliefs had risen from 4 per cent in 1979 to 6 per cent in 1986.

13. Under the Spanish Constitution, males had priority from the point of view of the succession to the throne, but it was agreed that that had an adverse effect from the point of view of equality between women and men. In view of the important role that the Spanish Crown had played during the period of the transition to democracy, she was sure that, in the near future, the Government, with the support of the Crown itself and the agreement of all the political parties, would amend that part of the Spanish Constitution.

14. With regard to article 7, at the general election in June 1986, 23 women had been elected to the parliament out of the total of 350 members, corresponding to a proportion of 6.57 per cent, i.e. an increase as compared with the previous parliament. The Spanish Socialist Party had 13 women among its 184 members of parliament, the largest number in absolute terms up to the present time. In the Senate, the proportion of women had increased from 4.35 per cent to 5.5 per cent. There were no women chairmen of parliamentary committees, and the proportion of women members of committees varied from 0, for the Committee on the Status of Members of Parliament, to 18 per cent for the Committee on the European Communities. She believed that there was a larger proportion of women candidates

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(Ms. Bustelo)

for the various parties who were less likely to be elected. In the Spanish Socialist Party, great efforts were being made to increase the proportion of women. The Secretary-General himself, Felipe Gonzalez, had recently sent out a circular to all the branches and regions of the party recommending that women should constitute 25 per cent of all candidates for the regional and local elections to be held next June.

15. Only 3 per cent of women and 6 per cent of men belonged to any party in Spain but, in the Spanish Socialist Party, women accounted for 18 per cent of the membership and 12 per cent of the members of its governing bodies. In the Popular Alliance, the conservative party, the corresponding figures were 33 per cent and 8 per cent, and in the Centre Party, 19 per cent and 5 per cent.

16. Only about 1 per cent of women belonged to any association, but associations were nevertheless numerous and the Institute for Women's Affairs assisted them by means of subsidies and by providing information; it also asked them for their opinion on those subjects on which views differed most widely.

17. For legal reasons, it was impossible in Spain for the administration to encourage people to vote for women. However, it had been possible to ensure that, in the campaigns organized by the Ministry of the Interior to encourage people to vote, pictures of women appeared in the same proportion as those of men.

18. The Institute for Women's Affairs had also conducted a campaign to encourage women to stand as candidates for school councils, elections for those councils having been held for the first time in Spain one year previously.

19. It would be desirable for the parties to establish quotas for the participation of women in their governing bodies and in their lists of candidates.

20. Within the administration, there was no special programme for the advancement of women. However, in the public sector, the proportion of women had risen from 1.8 per cent in 1975 to 18.4 per cent in 1985. Many of those women were occupying posts at the higher levels of the administration. Women had free access to any part of the administration, except to the armed forces and the Civil Guard. They had had access to jobs in the national and municipal police forces for some years already.

21. During the Second Republic, i.e. between 1931 and 1939, women had been allowed to enter the diplomatic service for the first time. The first and only woman who entered the diplomatic service at that time did so in 1933. During the Civil War and the Franco period, the entry of women into the diplomatic services was again prohibited until the introduction of the law of 1961, which was extended in 1966. Two women entered the diplomatic school in 1968 and became career diplomats in 1970. At the present time, of the 600 career diplomats, 10 per cent, i.e. 60, were women. Of new diplomats entering the service, 16 per cent were women. However, among career diplomats, only the Ambassador to Costa Rica was a woman. Of the Ambassadors appointed for political reasons, none was a woman.

22. Of the 2,100 officials of the Ministry of Foreign Affairs, 41.2 per cent were women. Among the officials at the higher level in that Ministry, 10.5 per cent were women. There was no woman director-general and the proportion of women deputy directors-general was 2 per cent. Since the delegations representing the Spanish Government at conferences or international meetings consisted of politicians or experts from the appropriate area, the percentage of women among them was comparatively low.

(Ms. Bustelo)

23. With regard to article 10, at the request of the Institute for Women's Affairs, the Ministry of Education had made it obligatory for all public primary and middle schools to be mixed. Also on the initiative of the Institute, the Ministry of Education had agreed that one of the criteria for the authorization of teaching materials must be the absence of all forms of sexual discrimination. A working group of the Ministry of Education, in which representatives of the Institute for Women's Affairs had participated, had implemented in 1984-1985 a programme aimed at increasing the awareness of those responsible for the reform of primary and middle schools and advanced education. A pilot project had been carried out on the reform of teaching in middle schools, which had included sex education, but that was not compulsory in all schools at the present time. In July 1986, the Secretary-General for Education and the Institute for Women's Affairs had signed an agreement for the implementation of a training programme in sex education for teachers in primary and middle schools.

24. With the collaboration of a Spanish expert working for the European Economic Community, a study was being carried out aimed at increasing the interest of girls in new technology. At the same time, a pilot project on non-discriminatory career guidance was being conducted.

25. Illiteracy among women had fallen from 12.8 per cent in 1976 to 8.9 per cent in 1986. The corresponding figures for men were 8.2 and 3.6 per cent. Among those aged between 16 and 29, illiteracy in both sexes was 0.7 per cent, i.e. practically non-existent.

26. In adult education, during 1983-1984, 89,000 students had qualified, of whom 52 per cent were women. Of the 53,000 who had obtained a diploma, 50 per cent were women.

27. At all educational levels, except between the ages of 2 and 3, there were more places in State schools than in private ones and many of the private schools were subsidized by the State. The percentage of girls and young women in the private schools was somewhat greater than that of boys and young men. The Ministry of Education was against any investment in education for children between the ages of 2 and 3, in spite of a demand for such education by women and by many experts, because of the considerable decrease in the number of children in that age-group, and because there was a good deal of social pressure on the Ministry to devote its efforts to extending education beyond the age of 14, at which, up to the present, it was compulsory and free of charge.

28. With regard to article 11, the proportion of women in employment was lower in Spain than in other European countries, because, at the time that the legislation became egalitarian, democracy was restored, and socio-cultural patterns began to be changed, the economic crisis and unemployment had also begun. The division of jobs according to sex was the product of cultural patterns that existed throughout the world. The proportion of men in employment had decreased, both because the period of compulsory education had increased and because men were retiring earlier. The same had occurred among women, but many women who had not previously worked outside the home now wished to do so. Unemployment was very high amongst single women because it affected, above all, young people, and many young women were single.

29. Of the 1,455,700 women working as wage-earners in the private sector, only 92,700 had professional or technical jobs. Of the 552,000 working in the public sector, 214,800 had professional or technical jobs. In the private sector, 2,100 were managers of undertakings.

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(Ms. Bustelo)

30. In principle, there was equal pay for equal work for men and women. The trade unions were mainly responsible for ensuring that that requirement was fulfilled, since they alone were able to exercise real control.

31. No statistics were currently available on the remuneration of men and women workers. Women were permitted to perform any type of work, except underground work in mines and, as already mentioned, they were not allowed to serve in the armed forces.

32. There were no special programmes for women migrants, but they received unemployment benefit for 24 months, and could obtain loans, subsidies, etc. A contribution was made to the cost of repatriation and the transport of furniture, etc. There were scholarships for the children of migrants, and they were given priority in day nurseries and schools.

33. Unemployment benefit in Spain amounted to 75 per cent of the minimum interprofessional wage. Benefit was paid for six months but could be extended, in certain cases, up to 18 months. For those over 55 years of age, benefit was continued until the age of retirement was reached. Workers were entitled to unemployment benefit, not only if they had stopped working for reasons outside their control and without having received any compensation, but also for those who were seeking their first job and had family responsibilities, i.e. had a dependent spouse or children living with them, and who were without any source of income greater than the minimum interprofessional wage, provided that they had been unemployed for one year.

34. Thanks to the job creation programme, 1,081,797 persons had found jobs in 1986, of whom 33.9 per cent were women. The jobs involved were of types formerly prohibited, e.g. temporary or part time, and those where the employee paid only reduced social service contributions. Among women, the majority of jobs created (58.1 per cent) were part-time.

35. No data was available for 1986 concerning State subsidies, but information from previous years indicated that programmes specifically intended to benefit women had not been very successful, probably because they had been badly designed and badly publicized. The statistics on the active and employed population had been obtained from a survey carried out by the National Statistics Institute: collection of the data had begun in 1964, and the data base comprised some 60,000 family units. For the survey's purposes, employed individuals were those 16 years of age and older who were working or had worked in the past three months for at least a third of the normal working day, whether or not they received social security benefits. The "hidden" economic sector was thus included in the data. Another survey, carried out by the Ministry of the Economy, indicated that 36 per cent of working women were employed in the "hidden" economy.

36. Turning to article 12, she said the most recent survey on population growth (1985) indicated that 98.6 per cent of women aged 18-49 years were aware of the existence of contraceptive devices - a significant increase compared with 1977 - but that more than one third of those interviewed had never used such devices. Those who used contraceptive devices most frequently were women between 20 and 29 years of age. The Institute had waged campaigns to publicize family planning using television and radio, the press and the publication of pamphlets. The activities of family planning centres had been somewhat disappointing, and as a result the Ministry of Health proposed to incorporate family planning services throughout the primary health care network.

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(Ms. Bustelo)

37. Studies showed that voluntary termination of pregnancy took place at least 100,000 times every year, but there had been only 1,500 legal abortions in all since the adoption, in 1985, of the law authorizing abortion if the mother's health or life was in jeopardy, after rape, and where foetal deformation was suspected. The law's implementation had been obstructed by the attitudes of physicians and the conditions imposed by public and private clinics before they would perform abortions. In a survey carried out in October 1986, however, 73 per cent of the population had been shown to approve of the legislation on abortions, and 35 per cent had endorsed the idea of free abortion at the woman's request. By age groups, it was 52 per cent of women and 51 per cent of men, aged 18-25 years, and 44 per cent of women and 54 per cent of men aged 26-40 years, who supported the idea of free abortion. Since the legislation on abortion had come into force, 60 cases pitting women against their physicians had come up in court, although no judgement had yet been rendered on any of them, and a number of violent street demonstrations had led to arrests. It was obvious that the debate on abortion was still raging in Spain.

38. With regard to article 14, she pointed out that Spain was primarily an industrial nation: the vast majority of the population lived in cities, but boys and girls in all areas had access to schooling as well as to radio and television. On the other hand, family planning services and other social services were not available throughout the country. Individuals employed in women's counselling or information centres travelled from town to town and did radio programmes. The Institute for Women's Affairs and the Autonomous Communities promoted socio-cultural activities to benefit the most underprivileged areas. In the Autonomous Community of Andalusia, for example, programmes had been carried out to provide child care for couples employed in seasonal work. No information was available on the results of programmes to instruct women, particularly young women working in rural areas, in the use of new technologies.

39. She described three institutions which operated in the Autonomous Communities and were responsible for determining and/or carrying out policies to benefit women: interdepartmental commissions, administrative units, and parliamentary committees. She explained further that the Autonomous Communities were independent in respect of social services, primary health care, culture, sports, tourism and youth services, and that some of them were also responsible for educational matters.

40. The Institute's Plan of Action for legislative action covered a number of areas, including the family, health, education, culture, employment, social services, urban development, politics and international co-operation. In an effort to achieve greater political involvement and an improved distribution of domestic tasks, the Institute for Women's Affairs would wage consciousness-raising campaigns, support the initiatives of women's associations and political bodies, and lobby members of regional and local administrative bodies to win their assistance in efforts to eradicate discrimination against women. It was to be hoped that the next periodic report submitted by Spain could provide progress reports on those efforts.

41. Ms. FRIAS (Spain) said the Convention had become part of Spanish domestic legislation with its publication in the Official Gazette on 31 March 1984: it could be directly invoked before the courts, and newly enacted legislation which contravened its provisions was null and void.

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(Ms. Frias)

42. In the context of article 6, she said prostitutes were not penalized under Spanish criminal law, but that the exploitation or encouragement of prostitution was a criminal offence. Special protection or assistance measures were not envisaged for prostitutes, who might be marginalized still further by such arrangements, but they could take advantage of programmes to benefit underprivileged individuals: single mothers, individuals who wished to acquire vocational training, etc. The Spanish social security system was based on contributions from employers: consequently, prostitutes could not tap its resources, but they were entitled to the health care benefits provided by local authorities.

43. The illegal traffic at the Portuguese border in women who were often under the legal age of maturity had been mentioned. The Spanish Government was aware of the problem, and the Institute for Women's Affairs had contacted its Portuguese counterpart to seek co-operation in solving it. The Government was concerned over the problem of prostitution, and the matter was currently being debated in the Congress of Deputies. An interministerial commission would soon be established to consider the matter.

44. In response to the question as to whether Spain was implementing specific measures to combat sexual abuse, she said the best policy was to pursue consciousness-raising efforts to encourage women to speak out about such incidents. Clear guidelines on how to cope with sexual abuse were contained in two publications recently issued by the Institute for Women's Affairs: a guide to women's rights, and a pamphlet on the rights of working women. The Institute was also carrying out sociological research on the problem.

45. A special unit to deal with women who had been mistreated, raped or sexually abused had recently been created within the police forces in cities which received the greatest number of complaints. The unit was composed entirely of women officials from the Ministry of the Interior: any woman who preferred to lodge a complaint before another woman, not a man, could now ask to do so. One of the women's associations had recently established a nation-wide service for women subjected to rape, which provided them with medical and psychiatric care and legal advice.

46. Article 429 of the Penal Code, which defined rape in general, did not exclude the rape of a spouse. The problem with the crime, in Spain as in the rest of world, was that it was difficult to prove it had occurred. To show how the definition of rape was applied in practice, she referred to a judgement in which a man had been found guilty of raping a wife from whom he had recently been separated. On the other hand, there was no established case-law concerning the rape of a spouse from whom the individual had not been separated: no complaints had apparently been lodged.

47. In 1985, there had been 1,630 allegations of wife-beating in Spain. Although, under article 583 of the Penal Code, a spouse found guilty of physically abusing his partner could be arrested, judges preferred to invoke article 585, which established a fine ranging from 750 to 7,500 pesetas for such offences. The reasoning was that deprivation of the husband's liberty prevented him from working, and the entire family suffered from the reduction in income. The Institute for Women's Affairs had proposed that repeated offences should be punishable by arrest during a weekend or overnight. The intention was to put an end to the injustice caused by imposition of a fine which penalized the victim, as the money came out of the couple's communal funds and went into the State's coffers.

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(Ms. Frias)

48. The Institute for Women's Affairs had waged a number of campaigns to increase public awareness of the problem of wife-beating and publicize the institutions available to deal with it: crisis centres and women's associations which could provide help in coping with the difficult situation created by such behaviour.

49. She now wished to deal with the topic of nationality. In Spain, the subject was covered by article 9 of the Civil Code which, in its present form, condoned discrimination against women in some areas. It stipulated, for example, that in a dispute about the provisions of international private law applicable to relations among spouses, the legislation of the country of which the husband was a national prevailed. The legislative reforms required to remove such a blatant example of prejudice were currently being carried out. The Congress of Deputies was now debating a draft law on adoption which would abolish the existing rule whereby the legislation of the husband's country of nationality took precedence in respect of adoption procedures. All of the above attested to the Government's and the legislature's desire to eliminate the last remnants of discriminatory provisions from Spanish law.

50. In respect of choice of domicile, it should be recalled that before the adoption of the Law of 7 July 1981, a married woman had had no recourse but to accept the domicile chosen by her husband: now, the choice of domicile was made by common accord between the spouses and, in case of failure to arrive at an accord, the decision was rendered by a judge who would take the family's best interests into account. The most recent session of the Congress of Deputies had come to an end before debate could be completed on a proposal to make the legislative provisions relating to the choice of domicile more flexible. Nevertheless, that body's willingness to discuss the subject was an encouraging sign.

51. It had been asked whether a particular nationality or place of domicile was a prerequisite for appearing in court in separation and divorce cases: it was not necessary to hold Spanish nationality to do so, and the judge who had jurisdiction in the matter was the one who handled divorce and separation proceedings in the couple's most recent place of residence. The Plan of Action drawn up by the Institute for Women's Affairs contained a proposal that cases involving separation by mutual consent should be heard in a court which had jurisdiction over the residence established by one or the other of the spouses.

52. She would now offer supplementary information in the context of article 11, on the right to work. The length of the working week was 40 hours. Remuneration was provided for time taken off by women to breastfeed a child of less than 9 months. Fathers as well as mothers had the option to take leave to care for children of less than 6 years of age; in such cases, the salary reduction was pro-rated in accordance with the actual time taken off, which could vary from one third to one half of the normal working day. During maternity leave, social security payments, which amounted to 75 per cent of the worker's salary, could be drawn, but the salary itself was not paid out, although in general the employer was obliged to make up the remaining 25 per cent.

53. Working women were required to participate in the social security system and were fully covered thereby, including coverage in respect of widower's pensions for their husbands, orphan's pensions for their children and health benefits for themselves and their families. Participation in the social security system was also obligatory for domestic help. The most noteworthy of all the planned reforms concerning maternity leave was its extension to 16 weeks, and the Institute for Women's Affairs had reason to hope that those reforms would be carried out in the near future.

(Ms. Frias)

54. Article 56 of the Statute of Workers regulated the grounds for dismissal from their posts of pregnant women or those who had just given birth. If those provisions were violated, a woman could appeal her employer's decision to the Labour Court and, if the Court so decided, the employer was obliged to reinstate the woman or to pay her the compensation outlined in article 56.

55. It should be noted that Spanish working women did not hesitate to defend their rights: a number of complaints had been lodged with the Constitutional Court by virtue of the recurso de amparo. A case in point was the action taken by telephone company employees who, before the constitutional reform and its prohibition of discrimination, had been forced to stop working when they married. Finally, she wished to note that the time required for the Constitutional Court to render its judgement varied considerably, from six months to a year.

56. Spain's entry into the European Communities now made it possible for individuals to appeal to the European Court at Luxembourg in cases involving discrimination between men and women in respect of employment.

57. As a final note on the employment of women, she explained that the Institute for Women's Affairs was committed to ensuring that women suffered absolutely no discrimination in general, and in particular in their choice of career and profession. Although it was not directly concerned in women's efforts to join the armed forces, it believed that those aspirations should be supported; the subject was a complex one, however, which required thorough and balanced consideration.

58. A number of points had been raised in connection with articles 15 and 16, and she wished to respond to those issues. First of all, the judiciary was identical throughout all of the Spanish territory: the Autonomous Communities did not have separate court systems. Accordingly, any decision by a Spanish court could be appealed to another court, to the Supreme Court, and, if a citizen's fundamental rights were violated, to the Constitutional Court. If a woman lacked the financial resources to take her case to the courts, she could request legal counsel free of charge. In Zaragoza, women were being given absolutely first-rate assistance in cases involving separation and divorce, and as a result the Institute had included in its Plan of Action a proposal for the establishment in other communities of similar services, following the Zaragoza example.

59. The institution of the dowry no longer existed anywhere in Spain, either in cities or in rural areas.

60. In connection with aggravation on the basis of contempt of sex, as defined in article 1267 of the Civil Code, she said the Institute's Plan of Action incorporated demands for the abolition of such language, but that such revisions were not seen as taking precedence over other matters.

61. According to article 109 of the Civil Code, a child took the family name of its father, followed by that of its mother, and at the age of 18 could decide whether or not to reverse that order; however, the most recent session of the Congress of Deputies had reviewed a proposal, by which the mother's family name might precede the father's from the child's very birth.

62. The revision of the Penal Code had established that adultery was no longer a crime: it could still be cited as a cause for separation, but it had no effect on decisions regarding custody of children. Parental authority could be removed in full or in part, but such a decision had to be based on the failure of either the father or the mother to fulfil parental duties or involve criminal offences or physical abuse. Both single men and single women were entitled by law to adopt children.

(Ms. Frias)

63. The Institute for Women's Affairs had often protested about the undue delays in the resolution of separation and divorce cases, delays which caused serious upheavals in people's lives. The Plan of Action contained a proposal for the establishment of more family courts and for the allocation to existing courts of additional staff. Although, during the hearing of cases involving separation and divorce, the courts refused to allow women to dispose of communal goods, they also prohibited men from doing so, since the allocation of a couple's possessions was decided by a separate court ruling.

64. On the issue of whether the courts granted subsistence allowances, she said it was done in two cases. The first was when one of the spouses was left in an economically precarious situation; then, the judge established the amount of the allowance in accordance with the relevant legislation. The fact that the individual in question was employed did not necessarily prohibit him from receiving the allowance. The second case was to provide for the needs of the children, and in such cases, the judge determined the contribution to be made by each progenitor.

65. Regarding the biological investigation of paternity, under article 127 of the Civil Code, she said that the man involved could not refuse to take the test, although the testimony of witnesses and other evidence was required before the test could be utilized. In that connection, the Supreme Court had ruled in October 1985 that a man's refusal to take a biological test in such a case was tantamount to an admission of paternity.

66. Article 4 of the Convention had not been covered in the report because it had been regarded as a definition rather than an obligation incumbent on States parties. However, article 9.2 of the Spanish Constitution covered the possibility of affirmative action, and the Constitutional Tribunal, in one of its first rulings, had decided that there was no inequality when it was due to an objective and reasonable cause which justified it, thus clearly establishing the legitimacy of positive actions in certain cases. A clear example of positive action taken by the Spanish Government following the ratification of the Convention had been the establishment, in October 1984, of the Institute for Women's Affairs, whose functions were set out in the report. The complaints received by the Institute related only to the administrative sphere, and their normal result was the correction of any incorrect decision taken. In 1986 some 50 complaints had been received.

67. The CHAIRPERSON thanked the representatives of Spain for their detailed replies to the questions raised and invited comments from the experts.

68. Ms. CARON congratulated the representatives on their replies.

69. She referred to an article that had appeared in the Toronto Star regarding discrimination against women in the all-male gastronomic societies in the Basque region of Spain, which excluded women from the dining rooms and kitchens, in contravention of the law against sex discrimination.

70. Ms. EVATT said it was clear that Spain accepted its responsibilities in respect of the Convention. The Institute of Women's Affairs was playing a very important role in working towards changes in the roles of men and women in Spanish society. She hoped that in future reports there would be more information about progress in the implementation of the Institute's Plan of Action, and towards equal political participation for women, wider educational and vocational training for women and increased employment opportunities. She would also welcome more information on family planning and abortion in Spain, as well as initiatives to combat rape and domestic violence.

(Ms. Evatt)

71. She was interested in the introduction of family courts and their role in changing attitudes of the judiciary to domestic matters.

72. Ms. LAIOU-ANTONIOU wondered whether fathers actually made use of their right under the law to take leave from their jobs until a child was six years of age. In Sweden and Norway, that approach had been tried but had not been successful. She suggested that efforts should be made to find a method suitable to Spain of bringing men into the very important task of bringing up children. If men did not take the responsibilities then there could be no real progress.

73. She hoped that the Institute for Women's Affairs would be successful.

74. Ms. GONZALEZ MARTINEZ said that the replies of the representatives of Spain virtually amounted to a second report.

75. Speaking on behalf of Ms. Montenegro de Fletcher also, she wished the Institute for Women's Affairs every success.

76. Ms. CORTI said she wished to congratulate the Institute for Women's Affairs on what it had managed to achieve, including obtaining subsidies from the Government for women's associations, as well as on the provision of shelters for battered women.

77. In the next report, she would like to see more details on the parallel, hidden economy which employed a large proportion of women. She would like to hear about the way Spain was planning to deal with that problem so that others might receive guidance for action in their countries.

78. On the question of parental leave, she said that Spain was in the forefront in that area. In Italy, parental leave had been extended to include the father, but it was not compulsory.

79. Ms. OESER congratulated the representatives of Spain on their replies and expressed the hope that they would report back to their Government on the Committee's concerns regarding the fulfilment of the aims of the Convention.

80. Ms. SALEMA wished the Institute for Women's Affairs every success.

81. Ms. SOUMARE, speaking on behalf of Ms. El-Tallawy and Ms. Ukeje and on her own behalf, expressed the hope that the next report from Spain would be a model for the entire Mediterranean area.

82. She was very interested in the work of the Institute for Women's Affairs and hoped that it would be very successful.

83. Ms. GUAN Minqian said she was very impressed by the information on the Institute for Women's Affairs which had worked very hard in its short lifetime.

84. Ms. BUSTELO (Spain) thanked the Committee for its encouragement.

85. In its next report, Spain would try to provide more information and to give a fuller picture.

86. With reference to Ms. Caron's remarks concerning gastronomic societies in the Basque region, she said that these were private clubs and so were free to make their own rules. She felt that the situation was a symptom of present-day civilization.

(Ms. Bustelo)

87. With regard to changing the attitudes of judges, in 1987 a seminar was to be held in conjunction with the Commission of the European Communities.

88. She agreed with the comments of Ms. Laiou-Antoniou regarding parental leave. Since the husband was usually the larger earner, it was unlikely that it would be the man who asked for leave from his job, and it was difficult to conceive a law to cover this. With regard to the education and training of women, attitudes were changing as social and cultural views developed. There would be more in the next report regarding the alternative economy.

89. Ms. Bustelo and Ms. Frias (Spain) withdrew.

Initial report of Sri Lanka (continued) (CEDAW/C/5/Add.29 and Amend.1)

90. At the invitation of the Chairperson, Ms. Perera (Sri Lanka), took a place at the Committee table.

91. Ms. PERERA (Sri Lanka) said that the form in which her Government's report had been presented was perhaps due to the fact that the required format of presentation had not been available to the reporting agency; the alleged inadequacy of the report in no way meant that there was widespread discrimination against women in Sri Lanka.

92. She hoped that the replies she would now give would clarify the true position of women in Sri Lanka. She could assure the Committee that her Government was most concerned to eliminate any existing forms of discrimination.

93. The Sri Lanka Constitution guaranteed equality of the sexes and provided an effective remedy for any violation in the courts.

94. Evidence that Sri Lanka took the Convention seriously was provided by the fact that it had created a separate Ministry of Women's Affairs and a Women's Bureau with a comprehensive and ambitious mandate to formulate, initiate and co-ordinate government policies of importance to women. Inequalities that seemed to appear in certain spheres were due not to any policy of discrimination, but rather to other causes, such as socio-economic reasons.

95. The Women's Bureau had been established in 1978, prior to the creation of the Ministry of Women's Affairs in 1983. It had been established as a government agency as a result of the increasing attention given to women's issues during the United Nations Decade for Women. It had initially operated under the Ministry of Plan Implementation, which was under the direct control of the President of Sri Lanka, but had been transferred to the new Ministry of Women's Affairs in 1983.

96. The Ministry of Women's Affairs had been created as a consequence of a recommendation made by a national symposium for women in 1982. The functions of the Ministry of Women's Affairs were the identification of all areas, projects and institutions related to women and the improvement of their quality of life and status.

97. The agency responsible for formulating and implementing policy was the Women's Bureau which functioned under the direct control of the Ministry of Women's Affairs.

98. The Women's Bureau had identified the following objectives:

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- (a) Identification of all areas for improvement in the quality of life of women;
- (b) Continuous evaluation of the extent to which women had been integrated in the economic and social life of the country on an equal footing with men;
- (c) Recommendations to guarantee full equality for women before the law;
- (d) Ensuring the preservation of Sri Lankan culture and traditions by fostering moral and ethical values in so far as they affected the role of women in the process of modernization;
- (e) Fostering and encouraging greater participation by women in the various spheres of national life;
- (f) Promotion of training and education for women to provide better access to socially meaningful action by women;
- (g) Co-ordination to provide a channel of communication between non-governmental women's organizations and the Government on women's affairs;
- (h) Acting as a central agency to channel foreign assistance for the promotion of projects for the development of women.

99. Information on the administrative structure of the Women's Bureau had been requested. The Bureau was headed by a Director, assisted by two Deputy Directors and supported by several Assistant Directors, responsible for project planning, evaluation and monitoring of the Bureau's programmes, and Plan Implementation Officers at district level.

100. Regarding the relationship between the Ministry of Women's Affairs and the Women's Bureau and other organizations, she said that "women's units" had been established in several ministries at inter-ministerial level to co-ordinate women's activities and programmes with the Ministry of Women's Affairs. At government level, the Women's Bureau had an Advisory Panel consisting of specialists from State agencies on education, law, health, labour, the media, community development, etc.

101. At non-governmental level, the Bureau collaborated actively with many non-governmental organizations such as the Centre for Women's Research, consisting of academics and researchers who had spent many years on research and action-oriented programmes for women. The Bureau was also linked with a women's services movement, called Seva Vanitha, a government-established non-governmental organization. Those were only two of the non-governmental organizations working closely with the Women's Bureau.

102. She hoped that that explanation showed that the Women's Bureau was not merely a welfare and protection service.

103. In response to the question asked regarding the goals for the improvement of women, she said that the Women's Bureau had a very comprehensive national strategy encompassing the problems of women in the various fields. Briefly, it was concerned with the creation of a general awareness of women's rights and privileges in society, changing attitudes towards women's roles and status, securing equal

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rights, women's participation in professions, increasing legal literacy among women, better educational opportunities, increasing income-generating activities, assistance to women seeking employment in West Asian countries, women's place in national plans, their increased participation in policy and decision-making at all levels, family problems, increasing access to health and improved nutrition.

104. Turning to the question asked concerning articles 3 and 4 of the Convention, she reaffirmed that Sri Lanka recognized that discrimination against women was fundamentally unjust and an offence against human dignity. The Constitution laid down that all persons were equal before the law and entitled to the equal protection of the law and that there should be no discrimination on the grounds of sex.

105. Article 12 (4) of the Constitution expressly recognized that nothing should prevent special provisions being made by law or executive action for the advancement of women.

106. It was significant that, despite the availability of a remedy by way of application to the Supreme Court for alleged infringement of the right to equality, no such application had been made since its introduction in 1978. There had been several instances of applications regarding alleged violation of certain other fundamental rights, sometimes with the assistance of the Legal Aid Commission of Sri Lanka.

107. Regarding article 5 of the Convention, the modification of existing social and cultural patterns of conduct of women and men was one of the goals of the Women's Bureau. Its programme included the changing of attitudes and liberation from any existing cultural conditioning. The Women's Bureau was also currently carrying out an opinion survey on changing attitudes towards women. The Women's Bureau was also encouraging shared responsibility in work in the home between men and women, mainly through awareness-raising, lectures in schools and the media.

108. No time-limit had been set for achievements in the sphere of promoting the status of women; it was seen as a continuing process.

109. In connection with article 6, it had been asked whether prostitution in Sri Lanka was linked to tourism. That was indeed the case, and the Government was currently giving attention to that problem. As the experts would appreciate, penal laws alone had not proved to be an adequate deterrent and the rehabilitation aspect was equally important. Under Sri Lankan law, not only the prostitutes, but also the "clients" were liable to penalties upon conviction. There was also a Brothels Ordinance which made any person maintaining a brothel liable to prosecution.

110. Regarding the actual position with regard to prostitution, a study had very recently been carried out and a report prepared. Unfortunately, she did not have the report available.

111. In connection with article 7 of the Convention, Ms. Gonzalez Martinez and Ms. Pilataxi de Arenas had enquired about the role of women in national development. The major political parties in Sri Lanka had established women's groups, but women's participation in the decision-making process was mainly confined to their exercise of the right to vote. However, there were no legal barriers preventing them from entering public service. The Government had begun to appoint more women to decision-making bodies, but the ultimate responsibility for advancement lay with women themselves. There was no discrimination against women

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who wished to serve their country abroad; in fact Sri Lanka had three female ambassadors. Women like herself had regularly represented Sri Lanka at international forums. The first Director of the Women's Bureau of Sri Lanka had been a member of CEDAW.

112. In reply to the question put by Ms. Ukeje, she said that the term "race" in the report referred to the various ethnic groups in Sri Lanka, including the Sinhalese, Tamils and Muslims. A wife could be treated as if she were of the same race as her husband in the application of some of the personal laws referred to in the initial report, which governed such issues as matrimonial rights and inheritance. A foreigner marrying a Sri Lankan woman was not entitled to Sri Lankan citizenship. Two members of the Committee had asked what was meant by a wife "acquiring the rank and dignity of the husband"; it only indicated that the wife took her husband's family name.

113. In respect of Ms. Evatt's questions concerning article 10, she had further statistics to submit to the Committee which showed that the number of boys and girls enrolling in school was roughly equal and that 40 per cent of those who had entered university in 1984 had been women, although they were under-represented in technical and agricultural institutes. The national strategy of the Women's Bureau was intended to encourage women to take up non-traditional subjects.

114. Many children dropped out of school, often for economic reasons; the Ministry of Education had established literacy centres outside the school system which were attended by boys and girls in roughly equal numbers. Surveys had shown that a majority of parents believed in equal educational opportunities for boys and girls.

115. Women had been admitted to the legal profession since 1956. Before that, they had been forbidden to practise as lawyers, but had been able to teach.

116. With reference to article 11, Ms. Akamatsu had asked about protection for female employees. Both sexes enjoyed equal opportunities for employment, and the labour laws provided special safeguards for women. The Maternity Benefits Ordinance stipulated that women's employment could not be terminated solely because of pregnancy, confinement or related illness, and a woman could not return to work for a specified period after the birth of her child. The provision of maternity benefits, creches and time off for breast-feeding had been described in the initial report.

117. Women were forbidden to work in mines, except in a managerial capacity where no manual labour was required. The regulations governing night work were drawn up to give extensive protection to women. Ms. Ukeje had feared that there might be too many regulations governing women's night work, which might dissuade employers from taking on women: however, in the clothing industry of the Free Trade Zone at least, that did not seem to be a problem.

118. Ms. Ukeje had remarked on the disparity between the maternity leave available in the private sector (12 weeks) and that in the public sector (6 weeks). The Government had, in principle, approved a proposal to increase the maternity leave granted to public sector employees; a study was currently under way to determine the effect that such an increase would have on government services. The reduction in maternity leave for women who already had a large family, which had been mentioned by Ms. Soumare, was intended to dissuade women from having too many children.

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119. In reply to the questions raised by Ms. Gonzalez Martinez and Ms. El-Tallawy, she said that the concept of equal pay for equal work was now recognized in Sri Lanka. The low level of wages was due to economic factors and affected men and women alike. The majority of workers in the clothing industry in the Free Trade Zone were women who had no special skills and were considered as cheap and easily dispensable labour. Their working conditions were deplorable, but efforts had been made to ascertain the existing problems and control the abuses inherent in that type of work. She would make available statistics which showed the distribution of female employees among major occupational groups and branches of industry.

120. Ms. Evatt had asked for more information about Sri Lankan women working abroad, particularly in the Middle East. The increase in the number of women working abroad had reduced unemployment and brought additional foreign exchange earnings. Women could seek employment abroad only through a registered employment agency, and the Labour Department had instituted programmes to give disadvantaged workers some information about the country in which they were to work and advise them on the investment of their savings. The Women's Bureau assisted women seeking employment in the Middle East.

121. Replying to a question raised by Ms. Pilataxi de Arenas, she said that the earlier restrictions on the employment of women in the public sector, particularly in the prestigious administrative services, had given rise to so much protest from women that it had been abolished in 1978. The Women's Bureau was trying to help rural women to gain access to higher-level jobs, although the problem affected rural men as well. She referred to further statistics which showed the distribution of female employees among major occupational groups and in various ministries and government departments.

122. In respect of article 12, Ms. Soumare had enquired about women's access to health facilities. Sri Lanka's action programme for family health education had enabled health inspectors, public health nurses and midwives to reach even the most remote areas of the country. Sri Lanka was committed to the achievement of health for all by the year 2000, with particular emphasis on maternal and child health. The women's organizations trained health workers, referred patients to health clinics where necessary, carried out immunizations and food distribution and were responsible for health education. Voluntary organizations were involved in the Expanded Programme on Immunization, sponsored by the World Health Organization and UNICEF, in which health education for women played an important part.

123. Ms. Evatt had asked about Sri Lanka's population policy. The Government was concerned at the rate of population growth, and provided family planning services and financial incentives for those practising family planning. Information was provided by the media, lecturers and midwives. The most popular contraceptive methods in Sri Lanka were female sterilization and oral contraceptives, which were readily available in family planning clinics and medical centres. Abortion was currently a criminal offence in Sri Lanka. She had no precise statistics to answer Ms. Soumare's question about the number of women employed in the health services. However, she could say from personal knowledge that many women worked as nurses and medical practitioners, and the number was increasing.

124. With reference to articles 15 and 16, an individual was subject to one of the systems of personal law by virtue of his/her religion, race, or residence in a specified area of the country. The age of marriage varied according to the personal law to which the individual was subject. Several experts had expressed concern about early marriages, and she could reveal that there was a proposal to
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raise the age of marriage to 21 years for both men and women under all legal systems in an attempt to reduce maternal mortality and the birth rate. Incidentally, in the period 1975-1979, there had only been 500 cases of marriage where the bride was under 16.

125. Ms. Evatt had asked about the right of married women to own property. The only restriction on that right was contained in the Tesawalamai system of personal law, which stated that a married woman could not dispose of her immovable property without the consent of her husband: nevertheless, she might apply to the court for permission to do so if her husband unreasonably withheld his consent. In cases of divorce and the custody of children, judgement on the basis of the best interests of the child had almost replaced the automatic granting of custody to the father, as in the past.

126. Ms. Evatt had also enquired about domestic violence. Although official statistics did not indicate that it was a serious problem, feminists in Sri Lanka had drawn attention to the issue, since women often refrained from reporting cases of domestic violence. The Women's Bureau placed a high priority on support for battered women and children. Assault or abduction of women was a criminal offence, and rape carried the death penalty. Sexual harassment of female prisoners - a point also raised by Ms. Evatt - did not seem to be a serious problem. Prison rules stipulated that male and female prisoners should be segregated and that female prisoners should be supervised by female officers.

127. Under the general law of the country, the grounds for divorce were adultery, desertion and incurable impotence at the time of marriage. The introduction of divorce on the grounds of a seven-year separation had led to conflicting judicial decisions and had yet to be clarified. Under the Kandyan system of personal law, the grounds for divorce included adultery by the wife and adultery, compounded by incest or gross cruelty by the husband. Under Muslim law, a wife could apply for divorce on the grounds of ill-treatment, but no grounds were laid down in respect of a husband who wished to obtain a divorce.

128. Under all the legal systems, the consent of the bride was a prerequisite for marriage, even in the case of an arranged marriage. The provision of a dowry was not a legal requirement, although a dowry was usually paid in an arranged marriage. In some cases, a bride who was working was considered equivalent to one with a dowry. Polygamy was practised only among the Muslim community. The Government had considered the introduction of a single law which would be binding on all ethnic groups and religions and a high-level committee was currently working to achieve some kind of uniformity. However, the individuals subject to the various systems of personal law had resisted the introduction of a universal code, and in a democratic society the Government could not override their wishes. Experts had asked whether the Constitution, which guaranteed equality between the sexes, took precedence over the personal laws; the answer was that the Constitution did not act retrospectively and could therefore not affect decisions taken before its promulgation.

129. In reply to the question raised by Ms. Escobar, she said that the mother was considered the guardian of an illegitimate child, although the father was responsible for its upkeep. An illegitimate child became legitimate if its parents married later. The number of single parent families was increasing as the growing economic independence of women made it easier for them to seek divorce. The Women's Bureau worked to ensure support for deserted women. However, the Government also provided marriage counselling bureaux in an attempt to reduce the divorce rate.

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130. Ms. Oeser had asked about the role of the Supreme Court in cases of alleged violation of the fundamental right to equality between the sexes. In fact, no such cases had yet been brought before the Supreme Court, although judgement had been passed in several cases of violation of other fundamental rights.

131. She wished to assure the Committee that Sri Lanka was anxious to implement the provisions of the Convention; the Government would continue its programmes for the advancement of women.

132. The CHAIRPERSON congratulated the representative upon the work she had done in preparing such detailed replies.

The meeting rose at 1.10 p.m.