



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

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COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Ninth session

SUMMARY RECORD OF THE 159th MEETING

Held at Headquarters, New York,  
on Friday, 26 January 1990, at 12 noon

Chairperson: Ms. EVATT

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The meeting was called to order at 12.10 p.m.

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

United Kingdom of Great Britain and Northern Ireland (CEDAW/C/Add.52 and Amends.1-4)

1. At the invitation of the Chairperson, Ms. Denham (United Kingdom) took a place at the Committee table.

2. Ms. DENHAM (United Kingdom) said that the United Kingdom supported the basic objectives of the Convention on the Elimination of All Forms of Discrimination against Women, and that many of her country's reservations had been declarations of its understanding of the purpose of the Convention. For example, paragraph (b), (p. 5 of the United Kingdom's report), to which Ms. Tallawy and others had referred was intended to make clear that the United Kingdom regarded existing legislation, such as the Equal Pay Act 1970 and the Sex Discrimination Act 1975, as appropriate measures for the implementation of the Convention.

3. The main reason for the length and complexity of the reservations and declarations was that the United Kingdom had felt that some of the Convention's provisions had been rather hastily drafted and were rather imprecise. It was clear that the drafters had envisaged a progressive implementation of the provisions of the Convention where such provisions could not be complied with immediately. However, unless a State made declarations or reservations upon ratification, it would be fully bound by all provisions of the Convention. The United Kingdom was therefore bound to enter reservations or declarations on the provisions which it could not implement immediately upon ratification, even if it intended to rectify its position within a short time.

4. Neither the hereditary peerage nor religious organizations nor women's non-governmental organizations had been "consulted" about the reservations which the United Kingdom had proposed to make. However, the views expressed by a number of non-governmental organizations had been taken into account at each stage of the ratification process, including the National Council of Women of Great Britain, the British Federation of University Women, CHANGE and the Responsible Society. There had been no representations from religious organizations. The Government's intentions to enter reservations concerning religious organizations and the peerage had been clearly stated in both Houses of Parliament in replies to parliamentary questions before ratification (in 1984 and 1985) and reflected the provisions of the Sex Discrimination Act, which made similar exceptions. That had given interested parties an opportunity to comment if they so wished.

5. Replying to the specific question raised by Ms. Ilić, she said that the United Kingdom's reservations to the provisions of the International Covenant on Civil and Political Rights regarding sex discrimination differed from those which it had made in the case of the Convention. The Covenant, unlike the Convention, dealt with many different aspects of civil and political rights and treated sex discrimination

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in a general way and in the context of other kinds of discrimination. Unfortunately, in its details the Convention was not always as precise as it might be, and it had been necessary for the United Kingdom to make quite extensive and detailed declarations of understanding and reservations to the Convention. However, there was nothing in them which was inconsistent with the United Kingdom's obligations under the Covenant.

6. Several members of the Committee had requested more information on the Ministerial Group on Women's Issues. The Group comprised a core of 13 Ministers covering a broad spectrum of key policy areas which affected women's lives. The Home Office Minister was chairman of the Group, and the Minister who was co-chairman of the Women's National Commission was vice-chairman of the Ministerial Group. Such an arrangement enhanced communication between women's organizations and the Government and ensured that reports on particular issues submitted by the Commission received full ministerial consideration. In areas where the views of the Commission and the Government differed, the Minister reported the views of the Commission to the Group.

7. Each Minister in the Ministerial Group on Women's Issues was responsible, within his or her department, for issues of special concern to women. The Group concerned itself collectively only with those issues which cut across departmental responsibility and required co-ordinated development and implementation. It was therefore not the role of the Group to co-ordinate and comment on every policy proposal as it was submitted to Cabinet. By means of reports from departments, the Group kept under review issues which it had considered. The Group drew up an agenda of issues to be considered and invited Ministers who were not permanent members of the Group to join it where a particular issue involved their departments.

8. The section of the Home Office with policy responsibilities for sex discrimination provided the secretariat to the Group. New posts had been created in the Home Office to deal specifically with the work of the Ministerial Group, and the secretariat had been given additional staff. The secretariat's role was to encourage, facilitate and assist the co-ordinated development and implementation of policy across departments. The networks of officials involved was therefore extensive. In particular, the network included officials of the Women's National Commission with whom the secretariat had close ties, thus ensuring more effective communication between women's organizations and the Government.

9. Ms. Schöpp-Schilling had asked specifically about the anti-discrimination guidelines which had been issued by departments based on the model guidelines agreed by the Ministerial Group. Those guidelines were intended to raise awareness of de facto discrimination as well as the principles of discrimination, and were being reinforced by specific training including a special course for senior staff at the Civil Service College. The course was not limited to personnel policies but sought to ensure that, at a very early stage, all officials were alert to the potential impact on women of all aspects of policy, so that action could be taken to avoid creating or perpetuating discrimination.

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10. Several members had raised questions about the Equal Opportunities Commission, particularly concerning its relationship with the central Government. In the United Kingdom, publicly funded non-governmental organizations retained operational independence. Although the Commission received its funding from the Government, it took its own decisions on the range of its activities and the deployment of its resources.

11. The Home Secretary appointed Commissioners to the Equal Opportunities Commission for Great Britain, and the Secretary of State for Northern Ireland appointed Commissioners to the Northern Ireland Equal Opportunities Commission. Both Commissions had a statutory duty to keep equality legislation under review and to submit proposals for reform, if required to do so or whenever they deemed it necessary, to the Government. The Commission's proposals for reform were issued as a public document, and members of Parliament could use the means available to them to submit proposed legislative changes. In practice, the Commission normally made its recommendations to Ministers.

12. In 1988, the Equal Opportunities Commission for Great Britain had submitted proposals for the reform of the Sex Discrimination Act 1975 and the Equal Pay Act 1970, including a proposal relating to clubs. Those proposals were under consideration, and the Home Secretary would respond in due course.

13. Ms. Laiou-Antoniou had asked about the Equal Opportunities Commission's regional structure. The Commission for Great Britain had offices in Glasgow, Manchester, Cardiff and London. In Scotland and Wales, the staff were supported by the Commissioner from that region. The Commission hoped to extend its regional structure and had made bids for extra funds from the Government to do so. The Equal Opportunities Commission for Northern Ireland was a separate body set up under separate legislation but with similar powers and duties.

14. Employment cases under the Sex Discrimination Act 1975 and cases under the Equal Pay Act 1976 were heard by industrial tribunals comprising a lawyer chairman and two lay members representing the two sides of industry. Normally, at least one of the tribunal members in a sex discrimination or equal pay case should be a woman, although that was not always possible. Complainants did not have to be legally represented. Cases dealing with non-employment matters - for example, education, housing and commercial matters - were heard by the County Court in England and Wales and by the Sheriff Court in Scotland.

15. All cases could be appealed up through the usual courts of appeal for Great Britain and, in cases involving European Community law, to the European Court of Justice. Legal aid was available for appeals and non-employment cases. In addition, the Equal Opportunities Commission had the power to provide financial and other assistance to women considering bringing legal cases.

16. She had not been able to obtain complete statistics on all cases brought in Great Britain since 1975. Full statistics would be provided at a later time. However, she was able to provide some information for 1987-1988, the last period for which information was available.

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17. Between April 1987 and March 1988, industrial tribunals in Great Britain had received 1,043 equal-pay claims, including a multiple application covering 719 claims. Eighty-nine cases had been settled without a tribunal hearing with the help of the Advisory, Conciliation and Arbitration Service, and a further 750 cases had been withdrawn by the applicant. Of the 204 cases which had had a tribunal hearing, 7 had been dismissed and 180 had been disposed of in other ways.

18. With regard to the breakdown for sex-discrimination cases during the same period, a total of 691 applications had been received by tribunals, of which 200 had been settled with the help of the Advisory, Conciliation and Arbitration Service, and 268 had been withdrawn for other reasons. Of the 223 which had proceeded to a hearing, 46 had been decided in favour of the applicant, 144 had been discussed and 15 had been disposed of in other ways.

19. For the calendar year 1988, in Great Britain 14 cases had been heard by the Employment Appeal Tribunal (6 of which had been assisted by the Equal Opportunities Commission), two cases by the High Court, four by the Court of Appeal (of which two had been assisted by the Equal Opportunities Commission and one had concerned an application for judicial review made by that Commission), and four (all assisted by the Equal Opportunities Commission) by the House of Lords, the highest national court of appeal. In 1988, the Equal Opportunities Commission had received 744 requests for assistance and had been able to give legal assistance in 269 cases and advice in 50 other cases.

20. The Northern Ireland legislation had come into effect on 1 September 1976. From that date until 31 March 1989, 55 equal-pay cases had been heard by industrial tribunals, of which 32 had been successful. The Equal Opportunities Commission for Northern Ireland had assisted 33 of the 55 cases, of which 25 had been successful. During the same period, six equal-pay cases had been heard by the Court of Appeal, all assisted by the Equal Opportunities Commission, and two cases had been successful. Three equal-pay cases had been heard by the Industrial Court, all successfully.

21. During the same period, 157 sex-discrimination cases had been heard by industrial tribunals, of which 101 had been successful. The Equal Opportunities Commission had assisted 137 of those cases, 97 successfully. Nine cases had been heard by the County Court, all assisted by the Commission, of which two had been successful. All six High Court cases had been successful (all but one assisted by the Commission). Of the seven Court of Appeal cases, one had been successful; the Equal Opportunities Commission had assisted that and three of the unsuccessful cases. The one case which had gone to the European Court of Justice, with assistance from the Commission, had succeeded.

22. Ms. Novikova had asked what authorities other than the Equal Opportunities Commission bore responsibility for sanctions under the anti-discrimination laws. The Equal Opportunities Commissions had limited powers of sanction only in relation to systemic discrimination by virtue of their formal investigation powers. Those against whom a non-discriminatory notice was issued had the right of access to the courts. The courts bore the major responsibility for enforcing the legislation.

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23. In cases concerning education, all complaints were stayed for referral to the Secretary of State for Education and Science in order to allow an inquiry to be made and the necessary steps taken, without the need for parents or students to pursue the case through the courts. Such a referral did not extinguish the right of access to the courts and, after a period of two months, if no reply had been received from the Secretary of State, the case would continue.

24. In 1989, a new voluntary organization, the Women's Legal Defence Fund, had been launched with the support of the Government, both legal professions and the Equal Opportunities Commission, among many others, in order to assist more women to bring complaints under the legislation. That organization existed to extend the advice given to women under the law by training non-lawyers (for example, union officials and advice workers) and to extend the number and regional distribution of qualified lawyers able to advise and act in such cases.

25. Regarding crimes committed by women, the main categories were theft, handling stolen goods, fraud, forgery, drug offences and prostitution. As with male offenders, the majority were dealt with in magistrate's court rather than being remanded in custody or released on bail pending trial by jury in the higher Crown Court. Few women were remanded in custody, but over 60 per cent of women remanded in custody - a much higher rate than for men - received a non-custodial sentence, and the reason why they had previously spent time remanded in custody was being investigated. 1988 Home Office guidelines had urged the granting of bail to women defendants.

26. The courts seemed to be sentencing far fewer female (3.7 per cent) than male (8.4 per cent) offenders to community service, perhaps because of the traditional view of community service as unsuitable for women. Consequently, the National Standards for Community Service Orders, in effect from 1 April 1989, provided guidance for the probation service and the courts, specifically stating that an attempt should be made to find suitable community-service work for female offenders, including those who were pregnant, and offenders with young children or other domestic responsibilities. If as a consequence the offender incurred special expenses, it might be possible to defray them. It was too soon to say whether the Standards had had the desired effect.

27. Some aspects of women's imprisonment gave rise to concern. For instance, proportionately more women than men were punished for disciplinary offences inside prison, and the issue was being discussed with individual prison governors. In addition, research was being done on the particular problems of mothers in prison and the physical and psychological development of babies in prison, one conclusion being that residence in a mother-and-baby unit did not significantly impair the development of babies. Areas where better child-care practice could be developed had been identified, however, and child-care experts in the Department of Health would monitor progress.

28. There was no evidence of discrimination against foreign women in prisons, although language and customs posed new challenges for prison staff. Many were in

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prison for drug-importation offences, however, for which the law mandated longer sentences than for other categories of offence: of the 305 such women in custody on 30 June 1988, 30 per cent were serving sentences of up to three years and 34 per cent, sentences of between 4 to 10 years. The foreign nationals were deported at the end of their sentences.

29. In relation to article 4 of the Convention, information had been requested on positive action in the United Kingdom. In order to encourage women to enter non-traditional areas of work, the Sex Discrimination Act exempted from its provisions special-access training for such work, and similar exemptions applied for other forms of encouragement, such as targeted advertising, although the Act explicitly forbade discrimination at the point of selection. Special training could also be given for those (predominantly women) returning to work after a period of discharging domestic responsibilities, and many such courses now existed. Other exemptions allowed positive action for women in respect of trade unions, political parties and some voluntary bodies.

30. With reference to article 5 of the Convention and activities that might be degrading to women, her Government favoured tightening the Obscene Publications Act 1959 to cover material grossly offensive to a reasonable person, the revision to be made on the basis of research on the effects of pornography. The test of obscenity under the 1959 Act was whether the overall effect of the material was to "deprave and corrupt", although the term was not defined. The courts, however, had held in 1972 that the words "deprave and corrupt" referred to the effect on the mind, including the emotions, and that it was not necessary that any physical sexual activity should result.

31. The Advertising Standards Authority had just completed a major study about women in advertising and would very soon be publishing a comprehensive report - a copy of which would be sent to the Committee - examining the extent to which complaints made to the Authority reflected attitudes held by the public at large. While over the years the Equal Opportunities Commission had emphasized promotional and educational work in the area of advertising, it had the power to bring legal action only where advertisements indicated an intention to discriminate unlawfully.

32. It was for local authorities through the cinema-licensing scheme to control the contents of films shown in licensed cinemas, and in general, they relied on the recommendations made by the British Board of Film Classification, which would not classify films that breached the criminal law.

33. It was for the criminal courts to determine whether a publication fell foul of the Obscene Publications Act 1959, whether the publisher should be convicted and whether the publication should be forfeited, while the police and the Crown Prosecution Service must consider whether there were grounds for prosecution. The police had powers to enter and search premises for obscene material and to seize it.

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34. With regard to women and the media, she had no detailed information on the number of women in broadcasting management. The responsibility for the recruitment of staff rested with the broadcasting authorities, the British Broadcasting Corporation and the Independent Broadcasting Authority, which were independent of the Government. It was also for them to judge the content of programmes, including the portrayal of women, in the light of Parliamentary directives and their own more detailed programme guidelines.

35. The Equal Opportunities Commission had taken cases to court on the advertisement of jobs under section 38 of the Sex Discrimination Act 1975, winning one of two such cases in 1988 and losing the second on a technical point of law that had been amended by the Employment Act 1989. In addition to the use of its exclusive legal powers, the Commission had issued guidelines on recruiting and advertising and related positive action.

36. Regarding the existence of sociological studies on the changes in public awareness of the role of women in the United Kingdom, the annual research journal British Social Attitudes covered attitudes towards gender equality and participation in the labour force.

37. In connection with article 6 of the Convention and the matter of sex-education programmes in schools, the Education (No. 2) Act 1986 gave school governors the responsibility to decide whether their school should provide sex education, and if so, what its content should be - subject, however, to section 46 of the 1986 Act, which required that sex education should encourage due regard to moral considerations and the value of family life. Guidance on that statutory position had been issued by the Department of Education and Science to schools, emphasizing that pupils should be helped to behave responsibly in sexual matters and appreciate the benefits of stable married and family life and the responsibilities of parenthood; and that teaching about the physical aspects of sexual behaviour should be set within a clear moral framework that underscored the risks of casual and promiscuous sexual behaviour. School governors must also satisfy the provisions of the National Curriculum of Science requiring that pupils must be made to understand the process of reproduction and the need for a responsible attitude to sexual behaviour.

38. With regard to rape, it was not possible to say for certain whether the increased number of recorded rapes reflected an actual increase in the number of rapes, because police recording of all allegations had become mandatory since 1986. The Government, acting on the recommendation of the Criminal Law Revision Committee, had decided against changing the law in order to make a man guilty of rape if his belief in a woman's consent was unreasonable - a change recommended by the Women's National Commission in 1981 - on the grounds that it would reduce rape to a crime of negligence. The Government was, however, not complacent about the situation and had, in its crime-prevention programme, issued guidelines on deterring crimes of violence, including rape. A Home Office Research Report on changes in rape offences and sentencing was being provided to the members of the Committee.

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39. In the United Kingdom, women's organizations had no standing in rape trials, and juries were, as usual, selected by random selection. There were no mandatory minimum sentences for sexual offences. Women's aid shelters for women who had suffered violence were eligible for financial support from local government and health authorities, and the Government provided an annual grant of £25,000 to the National Rape Counselling and Research Project, which worked on behalf of the rape crisis-centre movement.

40. The 1985 guidelines issued to Scottish police on dealing with complaints of sexual assault had been intended to ensure the well-being of the complainant and tactful police action. Inter-personal skills training was now at the core of all police training in the United Kingdom, and while it was difficult to evaluate its impact, the increased rate of sexual-assault reporting might indicate an increase in public confidence in police procedures.

41. With regard to prostitution, the Criminal Law Revision Committee had recommended in its seventeenth report that the current classification of offences should be replaced by three gender-neutral offences: organizing prostitution, controlling or directing the activities of a prostitute, and assisting a person to meet a prostitute for purposes of prostitution, punishable by imprisonment of seven years, three years and six months respectively. Proposals had also been made to reform the law on the use of premises for prostitution. In addition, a bill was currently before Parliament making it an offence for a man to solicit a woman for prostitution from a car, without requiring the application of the current tests of nuisance or persistence; the bill would also remove the legal presumption of the incapacity of boys under 14 to have sexual intercourse. There were no plans at the moment to introduce legislation on other major sexual offences.

42. There was no evidence of trafficking in women for the purposes of prostitution in the United Kingdom, and it would in any case be unlawful under section 22 of the Sexual Offences Act 1956, which made it an offence to procure a woman to become, in any part of the world, a prostitute or to leave the United Kingdom or her usual abode to become an inmate of a brothel. Section 23, furthermore, made it an offence to procure a girl under 21 to have unlawful sexual intercourse in any part of the world with a third person.

43. There were no specific programmes aimed at increasing other employment opportunities for prostitutes although they were, of course, eligible for the wide range of programmes intended to increase women's employment opportunities. There were also no plans for programmes to reduce the number of prostitutes. She had been unable to get a legal opinion on the question of the legal position of a prostitute's husband who lived off her immoral earnings, although it would appear that the wife could not be compelled to give evidence against her husband in court.

The meeting rose at 1 p.m.