ARTICLE 8

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TEXT OF ARTICLE 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

INTRODUCTORY NOTE

1. Article 8 is an application of the general principle that there should be no discrimination based on sex, a principle which is stated in several other provisions of the Charter. 1/

2. The present study contains an analysis of those decisions of the various organs of the United Nations relating to the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs and also a summary of the application and interpretations of Article 8, as evolved in the discussions and decisions of the Economic and Social Council and in the resolutions of the Commission on the Status of Women.

I. GENERAL SURVEY

3. The General Assembly, the Security Council, the Economic and Social Council and the Trusteeship Council have placed no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in their own sessions or in those of their subsidiary organs. 2/ The Staff Regulations of the United Nations governing the selection and conditions of work of the United Nations Secretariat and the Staff Rules implementing these Regulations include references to the principle embodied in Article 8. Statistics concerning the relative numbers of men and women participating in the various organs of the United Nations and detailed description of regulations relating to equal conditions of work in the United Nations Secretariat can be found in the memoranda 3/ submitted by the Secretary-General to the Commission on the Status of Women at five consecutive sessions.

1/ Preamble, second para.; Article 1 (3); Article 55 (c); Article 76 (c).
2/ The qualifications of members of the International Court of Justice are established in Article 2 of the Statute of the International Court of Justice which refers to "persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are Jurisconsults of recognized competence in international law". No woman has been elected or nominated for election as a member of the Court.
4. Women have participated in the work of all of the principal organs of the United Nations, with the exception of the International Court of Justice. 

5. The scope and meaning of Article 8 has been discussed at several sessions of the Economic and Social Council. At its seventh session the Council adopted a recommendation to Member States concerning the appointment of women to their delegations; a draft resolution containing a similar recommendation to Member States failed of adoption at the eleventh session of the Council, as it was then felt that the composition of delegations was entirely a matter for the Governments concerned. As far as the selection and conditions of work of members of the United Nations Secretariat are concerned, the Economic and Social Council at its seventh, eleventh and thirteenth sessions (held in 1948, 1950 and 1951 respectively) considered but did not adopt draft resolutions recommended by the Commission on the Status of Women containing recommendations to the Secretary-General. Subsequent to the thirteenth session of the Economic and Social Council, the Commission on the Status of Women at its sixth and seventh sessions adopted resolutions addressed directly to the Secretary-General and containing recommendations on the participation and conditions of work of women in the Secretariat.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Participation of men and women in the United Nations Secretariat

6. The Staff Regulations and the Staff Rules of the United Nations Secretariat, which govern the selection of staff, contain provisions concerning the participation of men and women.

1. Provisions concerning participation in any capacity

7. Regulation 10 of the Staff Regulations adopted in Annex II of General Assembly resolution 13 (I) provided that: "Men and women are equally eligible for all posts in the Secretariat."

8. The Staff Rules implementing the Staff Regulations contained a similar provision in rule 53: "Men and women shall be equally eligible for all posts."

9. Staff Regulations superseding all previous regulations were adopted by the General Assembly in resolution 590 (VI); regulation 4.3 reads, in part, as follows:

"In accordance with the principles of the Charter, selection of staff members shall be made without distinction as to race, sex, or religion."

4/ The treatment of the staff of the Registry of the International Court of Justice is assimilated to that of the Secretariat of the United Nations; Article 18 (2) of the Rules of Court adopted on 6 May 1946 provides that the Regulations for the staff of the Registry shall conform as far as possible to the provisions of the Regulations for the staff of the United Nations. The Staff Regulations for the Registry include no provisions specifically implementing or interpreting Article 8.

5/ ESC resolution 154 B (VII).

6/ G A (V), Suppl. No. 3 (A/1345), para. 264.

7/ See paras. 21-24 below.

8/ SB/G/81 and ST/AFS/ST/G/81/Revs.1-3.
10. The Staff Rules in force as of 1 January 1953 and implementing the Staff Regulations no longer contain a provision concerning the eligibility of men and women for Secretariat posts.

2. Provisions concerning participation under conditions of equality 2/

11. In its Report on the Organization of the Secretariat, the Preparatory Commission of the United Nations noted that:

"Under Article 8 of the Charter, there can be no differentiation in rates of pay for men and women doing equivalent work." 10/

12. Neither the Staff Regulations adopted at the first session of the General Assembly nor those subsequently adopted at the sixth session contain express provisions referring to Article 8 in regard to equality of conditions of work for men and women.

13. Rule 222 of the Staff Rules implementing the first set of Staff Regulations 11/ reads as follows: 12/

"In these rules, terms referring to persons and staff members in the masculine gender shall apply also to women, except where the contrary intention is evident from the context."

14. Rule 112.1 of the Staff Rules 13/ presently in force is entitled Gender of Terms and reads as follows:

"In these rules reference to staff members in the masculine gender shall apply also to women, unless clearly inappropriate from the context."

15. Differences in the wording have occurred with reference to the spouses of staff members. The earliest instance of this difference occurs in the Report of the Preparatory Commission of the United Nations which noted that:

"the Organization should reimburse the removal costs and the travel expenses of staff members and their families upon appointment, upon change of official station, and upon termination of appointment. The Organization should also provide for travel expenses of staff members, their wives and dependent children, on home leave." 14/

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9/ Paras. 9-11 of the Pension Scheme Regulations for members of the International Court of Justice adopted in General Assembly resolution 86 (I) refer only to pensions payable to widows of members of the Court. The Travel and Subsistence Regulations of the International Court of Justice (I C J Series D, No. 1, pp. 94-97) are similarly phrased, and para. 6 employs the phrase "wife and/or dependent children".


13/ Implementing Staff Regulations adopted in G A resolution 590 (VI).

16. The phrase "wife and dependent children" was incorporated into Rules 30, 124 and 197 of the Staff Rules implementing the Staff Regulations adopted in General Assembly resolution 13(I), and referring to home leave and official travel. Rule 38 (concerning the Staff Assessment Plan) and Rule 114 (concerning the Repatriation Grant) employed the phrase "a wife, a dependent husband, or a dependent child". 15/

17. The Staff Rules in force as of 1 January 1953, which implement the Staff Regulations adopted in General Assembly resolution 590 (VI), define a dependent spouse as "a wife or dependent husband". 16/

18. Similar principles are embodied in Staff Rules 17/ applicable to personnel engaged in short-term service and to Technical Assistance project personnel.

19. Article VII of the Regulations of the United Nations Joint Staff Pension Fund 18/ referred to certain death benefits exclusively payable to the widow of a married male participant 19/. An amendment to Article VII was adopted by the General Assembly in resolution 772 (VIII) and provided that if the widower of a married woman participant were found "to be totally and permanently incapable either physically or mentally of providing for his own support, at the time of her death, he shall be entitled to the same benefits as set forth in this article, as would a widow of a male participant". 20/ Article VIII of the Regulations also differentiates between the children of male or female participants in the payment of child's benefits in the event of death of the participant.

20. The Provisional Rules Governing Compensation to Staff Members in the Event of Death, Injury or Illness Attributable to the Performance of Official Duties on Behalf of the United Nations 21/ define "dependants" to mean and include only "a wife, dependent husband, dependent child, dependent parent, dependent brother or dependent sister".

3. Discussions concerning appointment and promotion of women and conditions of equality

21. The Commission on the Status of Women has made reference to Article 8 in resolutions adopted at its second, 22/ third, 23/ fourth, 24/ fifth, 25/ sixth, 26/
and seventh 27/ sessions urging the Secretary-General to assure equal opportunity to women in the Secretariat and to appoint them to senior posts; and has requested him to report on the subject. These requests were all addressed directly by the Commission to the Secretary-General, with the exception of that contained in a resolution recommended at the fifth session of the Commission for adoption by the Economic and Social Council; all were incorporated in the reports of the Commission to the Council.

22. The Economic and Social Council itself has never made any recommendations to the Secretary-General concerning the appointment of women to Secretariat posts. At the seventh session of the Council, its Human Rights Committee considered the report of the second session of the Commission on the Status of Women and decided 28/ to delete from a draft resolution submitted by the United States 29/ a request to the Secretary-General "to consider women equally with men for key appointments in the United Nations Secretariat"; 30/ the Human Rights Committee felt that such a request would be inappropriate and that there was no evidence that the Secretary-General was failing to fulfill the Charter provisions. At the eleventh session of the Council, its Social Committee discussed the Commission's reiterated request to the Secretary-General contained in the report of its fourth session, and decided to take no action on the matter other than to transmit the summary record of its discussion to the Advisory Committee on Administrative and Budgetary Questions. 31/ Furthermore, the view was expressed that the wording of the Commission's resolution raised questions which, under the terms of the Charter, fell within the discretion of the Secretary-General. At the thirteenth session of the Economic and Social Council, its Social Committee decided to take no action on a draft resolution containing similar provisions recommended by the Commission on the Status of Women in the report of its fifth session. During their consideration of the question, several members of the Social Committee of the Council were of the opinion that such a resolution might imply an interference with the discretion of the Secretary-General who ought to be free to appoint the best persons available.32/

23. The reports requested by the Commission on the Status of Women on the number and proportion of women occupying posts in the Secretariat were submitted by the Secretary-General at the Commission's fourth, fifth, sixth, seventh, and eighth sessions.33/ The Secretary-General, in his welcoming address at the eighth session of the Commission, in 1954, stated that under his administration the best persons available would be selected for Secretariat posts and that there would be no discrimination on the basis of sex or on any other ground contrary to the Charter or to the Universal Declaration of Human Rights. He suggested that future representations on the subject be channeled through the Fifth Committee of the General Assembly as the appropriate body to which the Secretary-General reports on matters of personnel administration.34/

28/ E/AC.27/SR.5, p. 10.
29/ E/AC.7/W.25, para. l.c.l.
30/ For the amendments to delete these words submitted separately by the delegations of Chile, United Kingdom, and USSR, see E/AC.27/W.12, E/AC.27/W.7 and E/AC.27/W.9, respectively.
31/ E/AC.7/SR.154, p. 11.
24. At the same session, the Commission adopted a resolution \(^{35/}\) by which it noted with satisfaction the statement of the Secretary-General and looked forward with confidence to an increasing number of women in policy-making or senior posts in the Secretariat.

**B. Participation in other United Nations organs**

25. At the seventh session of the Economic and Social Council in 1948, its Human Rights Committee considered various draft resolutions \(^{36/}\) concerning the participation of women in governmental and international activity. The Human Rights Committee rejected \(^{37/}\) a proposal \(^{38/}\) submitted by Chile which first quoted Article 8 and then stated that:

"The principle underlying this provision \(\text{Article 8}\) is, by its very nature, applicable to Members as regards their international representation, to all public activities and the exercise of the professions."

26. The prevailing view was that the purpose of Article 8 was strictly limited to the United Nations, and that Article 8 was not appropriate as a preamble to the operative paragraph in the draft resolution concerned with recommendations to Member States on access of women to public service and the professions.

27. The resolution ultimately recommended by the Economic and Social Council \(^{39/}\) quoted Article 8 in the preamble, and the relevant operative paragraph recommended that Member States:

"Consider women equally with men when appointing their delegations to organs and agencies of the United Nations and to international bodies and conferences."

28. It should also be noted that the words "delegations to" had been substituted for the words "representatives on" during the discussions of the Human Rights Committee \(^{40/}\). It was felt that the term "representatives" limited the scope of the resolution to the heads of delegations, if taken in connexion with Articles 9, 23 and 61 of the Charter (referring to representatives of Member States to the General Assembly, the Security Council and the Economic and Social Council); as used in the resolution, the term "delegations" was intended to cover all the members of delegations representing Member States at organs and agencies of the United Nations and at international bodies and conferences.

29. At its eleventh session in 1950 the Economic and Social Council referred to its Social Committee a draft resolution of the fourth (1950) session of the Commission on the Status of Women \(^{41/}\) entitled "Participation of Women in the Work of the United Nations."
United Nations". Article 8 was quoted in the preamble to this draft resolution, which considered that "the appointment of delegations is within the jurisdiction of the Member States of the United Nations".

30. The relevant operative paragraph suggested that the Economic and Social Council draw the attention of Member States to the desirability of greater participation of women in delegations.

31. In its discussion of the draft resolution ⁴²/, the Social Committee felt that the question of the participation of women in the delegations of Member States was entirely a matter for Governments. The Chairman of the Committee expressed doubts as to the admissibility of the draft resolution, and suggested that it would be wiser to be content with an exchange of views on the subject, and that the summary records of the discussion would automatically be brought to the attention of the various Governments through the circulation of the summary records. This suggestion was adopted.⁴³/ Article 8 was mentioned in the debate solely in connexion with the admission of women to posts in the United Nations Secretariat ⁴⁴/. No further recommendations to Member States in connexion with Article 8 were proposed to the Economic and Social Council by the Commission on the Status of Women.

32. At its thirteenth session in 1951 the Council adopted resolution 385 E (XIII), in which it invited "Member States to nominate, and the Trusteeship Council to consider appointing, women to serve as members of visiting missions". This resolution was adopted at the request of the Commission on the Status of Women, and cited Chapter XIII of the Charter under which the Trusteeship Council is empowered to dispatch visiting missions to Trust Territories. Economic and Social Council resolution 385 E (XIII) was cited without further elaboration in resolution 427 (X) of the Trusteeship Council dealing with the organization and methods of functioning of visiting missions, in which the Trusteeship Council decided that the principles set forth in Economic and Social Council resolution 385 E (XIII) would be taken into account in making arrangements for future visits to the Trust Territories.

33. At its sixth and seventh sessions, held in 1952 and 1953 respectively, the Commission on the Status of Women adopted resolutions on participation of women in the work of the United Nations quoting Article 8 and requesting the Secretary-General to include in his reports on the number and proportion of women in the secretariats of the United Nations and of the specialized agencies, data on the number and proportion of women

"who have served as delegates and alternates for their countries in sessions of the General Assembly and in the permanent delegations to the United Nations, as well as on their participation in the principal organs and commissions of the United Nations, in the International Court of Justice and in conferences of the specialized agencies, since the San Francisco Conference." ⁴⁵/

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⁴³/ E/AC.7/SR.13⁴/, p. 11.
⁴⁴/ See para. 23 above.
⁴⁵/ E/CN.6/227, para. 92. Similar wording was used in the seventh session resolution (E/CN.6/227, para. 92), with the addition of a request to include UNICEF in the above-mentioned list.