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Committee on the Elimination of Discrimination
against Women
Forty-fourth session
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PROPOSED general recommendation on the economic consequences of marriage and its
dissolution

**STATEMENT SUBMITTED BY THE INTERNATIONAL FEDERATION OF
WOMEN LAWYERS AND THE INTERNATIONAL FEDERATION OF
WOMEN IN LEGAL CAREERS IN SUPPORT OF THE PROPOSED GENERAL
RECOMMENDATION ON THE ECONOMIC CONSEQUENCES OF
MARRIAGE AND ITS DISSOLUTION BY DIVORCE OR DEATH**

The International Federation of Women Lawyers and the International Federation of Women in Legal Careers join together to applaud and to support the CEDAW Committee's effort to draft a General Recommendation on the economic consequence of marriage and its dissolution.

As the Concept Note explains, marriage is an economic partnership and its dissolution is a complex subject which implicates many factors. Largely legal in aspect, it brings together many issues which the CEDAW Committee has been addressing for years—urging states parties to remove reservations to Articles 15 and 16 of the CEDAW Convention; recommending that states parties repeal discriminatory laws and abolish discriminatory practices; advising states parties to harmonize all national legislation, in this instance those relating to family/domestic relations/property/inheritance law; and emphasizing implementation of existing law and policies.

Research has shown that in many developed countries, particularly married women and women with children remain in significantly weaker positions economically than men. Even when participating in the paid work force, married women's income is typically 35% of the total household's income. This disparity is due to traditional division of labour within most marriages. Women continue to do the bulk of unpaid work in the home—housework and child care and sometimes elder care—when they continue to work in the labour force. When children are born, mothers cut back in paid work, work part time or seek flexible work arrangements to stay home, forgo promotions, take jobs closer to their home or resign. If a woman takes a year off from paid employment during prime earning years, her return to the paid work force is difficult or blocked. In finding work, these women discover the price tag for the gap in their work history. Conversely, for men, those married and with children are in opposite circumstances than that of women.

Divorce in particular brings economic inequalities to the fore. It must be underscored that to begin with, the playing field is not level between men and women. Thereafter, the cost of divorce is high and sometimes prohibitive; it is a lengthy process often with delays and emotional/mental trauma; it frequently results in unfair economic outcomes to women and their children; and it can sometimes exclude women who are those most in need. Some legal remedies relating to divorce which have had positive effects for women and their children are the enactment of: Post Marital Income Award Guidelines and Child Support Standards.

Post marital income award guidelines concern what is known as maintenance/alimony or spousal support. The guidelines provide a formula to be used to calculate a specific amount which is awarded. Another formula is used to calculate the length of time the amount awarded is paid. For example, in longer marriages, there is a longer time for the amount of the award to be provided. In some instances, in marriages that have lasted more than 20 years, the guidelines recommend a permanent award. The post marital income award guidelines are significant also because in some jurisdictions where there are no guidelines, it is difficult for the lower-earning spouse, primarily women, to make a claim for maintenance. Litigating a claim for maintenance is expensive and takes time causing many women to give up this claim because they can't afford to pursue it. The result for women is limited access to justice and an unfair economic distribution.

Child support standards work in a similar way to that of the post marital income award guidelines. Here again, the aim is to provide less costly and quicker proceedings with a predictable, consistent and equitable award of child support.

Since the general recommendation will be applicable to women across the globe, other themes for the CEDAW Committee to consider and which directly affect members of the International Federation of Women Lawyers and the International Federation of Women in Legal Careers are:

- Registration of Marriage;
- The right of women to initiate divorce;
- Religious and customary law and practices;
- Polygamy;
- Marital support/alimony;
- Child custody and support;
- Distribution of assets and the right of women to inherit and manage property;
- Widowhood;
- Equality before the law, the legal process and legal aid.

In discussing equality before the law in the context of the dissolution of marriage, it is important to note that in many countries, the applicable law is oral or it is in a language other than that of the native tongue of the woman. In other countries, there is no legal aid for civil proceedings. If women have representation it is often less than adequate and consequently women cannot effectively safeguard their rights. In the legal and judicial system, there is corruption and a misunderstanding of the law or its implementation. One of these or any number of these issues, compound the pre-existing unequal playing field between men and women which further deepens the economic divide.

I have previously provided information to Madame Kaddari and Professor Freeman and remain ready to assist them and the members of the CEDAW Committee. At this time, I call on my NGO colleagues to support women's legal literacy, to support the legal and judicial profession not only to increase female members but also to advocate for gender sensitivity training in those professions, and finally, to support the work of the CEDAW Committee as it monitors states parties treaty obligations and carries on its other important duties. Thank You

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