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Law and the Status of Colombian Women

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LAW AND THE STATUS OF COLOMBIAN WOMEN

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"Someone said recently that of all the deeds of the past century, including the discoveries and progress which transform human life and change the significance of time and space itself, it is doubtful that any are of such deep significance and in the long run, of such great benefit, as that of the liberation of women." *

Dag Hammarskjold

*Unofficial translation by the Law and Population Programme Staff.

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. HISTORICAL BACKGROUND: SOCIAL, RELIGIOUS, POLITICAL, ECONOMIC AND CULTURAL ASPECTS	1
A. Social Aspects	1
B. Religious Aspects	3
C. Political Aspects	4
1. Historical Background	4
2. Legal Background	7
D. Economic Aspects	9
1. Beginnings of Female Participation in the Economic Life	9
2. Acquisition by Women of the Right to Engage in Business	9
E. Cultural Aspects	10
III. DISCRIMINATORY ATTITUDE OF THE LAW	13
IV. POLITICAL RIGHTS AND PARTICIPATION IN PUBLIC AFFAIRS	17
A. Right to Vote	17
B. Military Service and Participation in the Peace-keeping Forces	18
C. Women's Participation in Political Affairs	19
V. FAMILY LAW AND RELATED PROBLEMS	21
A. Introduction	21
B. Laws Regarding Entry into Marriage	22
1. Legal Representation	22
2. Parental Consent to Marriage	23
C. Right of the Wife to her Maiden Name	23
D. Right of Women to Administer Property	25
1. The "Sociedad Conyugal"	25
2. Equality of Property Rights	27
E. Right of Wife to Litigate and Appear in Court	27
F. Rights of Wife in Regard to Intra-Family Relationships	28
G. Laws Regarding the Dissolution of Marriage	28
VI. PENAL CODE	33
A. Polygamy	33
B. Non-Support of Family	33
C. Bigamy and Illegal Marriages	34
D. Adultery	34

	<u>Page</u>
E. Abortion	34
F. Infanticide	34
G. Procuring	35
VII. RIGHTS OF WOMEN WITH REGARD TO PREGNANCY AND MATERNAL HEALTH INFORMATION	37
VIII. ECONOMIC AND SOCIAL LAWS	39
A. Employment and Labor	39
1. Equal Access to Job Opportunities	39
2. Equal Treatment in Tax Laws	40
3. Equality in Old Age, and Other Social Security Protection	40
4. The Education and Training of Women	41
5. The Agrarian Program	42
IX. OBSERVATIONS AND GENERAL RECOMMENDATIONS	45
Annex A - Comments on "The Statute of Women in Colombia," Decree 2820 of 1974	47
Annex B - Seminar for the Celebration of International Women's Year	57
Annex C - Chart showing degree of women's participation in each branch of Colombian government	57
Annex D - Excerpts from Law 27 of 1974 (establishing pre- school comprehensive care centers) and the Law's significance	63

I. INTRODUCTION

The present situation of women in Colombia has been conditioned by various cultural factors. These clearly take for granted the supposed superiority, dominion, power and full authority of the man, as well as the supposed inferiority, dependency and incapacity of the woman. The influence of the judicial system, however, based on the family and inspired by the principles of Roman Law, has also greatly affected the status of women. In Roman Law the "Pater Familiae" had absolute authority over his wife, his children, and their property.

These principles became part of our legislation through the Napoleonic Code, a document which followed closely the sources of Roman Law. Later codifiers consulted and followed this Code. In turn, when Andres Bello was commissioned to draft the Chilean Legal Code, he too based his work on the same sources, which were eventually to inspire the Colombian Civil Code.

From the preceding, it is evident that there is a great deal of reciprocal action between the status of women in Colombia and the law. The law has greatly affected female status and, in turn, this has influenced the law, as we will come to see in this study.

II. HISTORICAL BACKGROUND: SOCIAL, RELIGIOUS, POLITICAL ECONOMIC AND CULTURAL ASPECTS

A. Social Aspects

Women, in addition to their domestic tasks, engaged in activities such as embroidery, sewing and painting, which produced some economic income without making it necessary for them to leave the home. This was the origin of "trabajo a domicilio" (home work), which is now regulated by our labor legislation. It involves an employer contracting with a worker for some piece of work. The latter executes this and is paid by the employer, but the work is done by the worker in her home, often with the help of other members of the family.

Other women, those belonging to the more wealthy economic classes, only attended to a few domestic chores and within the realm of social activity, they cultivated some of the arts, such as painting, poetry, and music. The life of the peasant woman combined household chores with working the land and taking care of the animals.

This situation, in which one finds the role of women very clearly defined, has evolved with the passage of laws which permit women to manage their property and take part in various acts of civil life. However, limitations on the capacity of women have lived on. These have in part been reformed by the new concept of a married woman's legal capacity, introduced by laws recognizing a woman's property rights.

Since primitive times men have dedicated themselves to the maintenance of a social organization which they themselves imposed upon the family. This organization is such that a man possesses absolute authority over his wife and children. This is due in part to the feudal attitude which is still very much with us, that is, the concept of the absolute authority of feudal lords over persons and property belonging to their estate. Among these persons were women, for they were considered inferior and incapable beings. This attitude changed very slowly until recent times, when (as was the case in many other countries) new concepts of the capability and value of women were introduced.

Until a few years ago female participation in labor unions was only theoretical. Women were not permitted to take part in the deliberating processes, in the writing of petition sheets, or in collective bargaining. Here they could have exerted real influence by introducing standards, under which they would have been guaranteed equal treatment and equal wages.

From childhood on, women are taught to serve. Because of this, their contributions in the social field are invaluable, especially those related to orphans, health and education. In recognition of the immense contribution made by women in these fields, the present government has offered women all sorts of opportunities to take part in the elaboration of policies and programs to benefit the community. Their efforts have been channeled through the "Unidad Popular del Voluntariado" (a volunteer civic action group) of the Colombian Institute of Family Welfare.*

Presently there is a movement to establish by law obligatory social service for women, which would correspond to obligatory military service for men. This is a suggestion with which I do not agree because of what it would imply, namely, the enactment of a law, the remuneration for service, the random grouping of women, and what is worse, the concept of obligation. Without any of these requirements and without constituting any burden on the State of Colombia, voluntary service has contributed, and continues to contribute greatly to the solution of Colombian social problems. Such service operates in an absolutely impartial way, with a great spirit of responsibility, enthusiasm for service and sensitivity to social problems.

A social variable which has affected the health level of Colombian women has been their low level of participation in the work force outside the home. Social security policies, in which the right to medical services

* See Agreement 00214 concerning volunteer work.

is included, were highly discriminatory and only helped the worker who lent his services to businesses affiliated with social security programs. The part of the population, therefore, which did not work under these conditions, as was the case with the majority of women, remained without medical attention or were relegated to the public health services. These are seriously deficient, especially in rural areas where women have even less access to a paying job. Fortunately the present government has directed its social policies toward the improvement of the health conditions of the Colombian population. It has given priority to the marginal zones and to the peasant population, within which the woman plays a role of utmost importance in both agricultural productivity and nutrition.

In Bertrand Russell's study in Marriage and Morals, reference is made to various other factors which are also related to the standards by which women are judged in our country. The physical, and later mental, subjection of women has contributed to the fact that true companionship between husband and wife does not exist. The husband-wife relationship is condescending on the one side and submissive on the other. Men have kept their serious thoughts and plans to themselves, for fear that these more stimulating thoughts might somehow induce their wives to deceive them. Thus, many women have been denied any experience of the world and of business. They have been kept artificially ignorant.

John Stuart Mill, in his book The Subjection of Women also identifies with the longings of Colombian women, who for many years fought to obtain equal rights and, having finally obtained them, do not wish to see them limited to the upper classes. On the contrary, they want to see these rights extended to all strata of society, especially to less informed women with less access to state institutions and services. In so doing it is beyond doubt that women will become a formidable political force. As such, they will be able to make the desired conquests and place themselves in the positions of influence and service which are rightfully theirs.

Note that all change in this respect has to be promoted and effected by women, for logically enough, men do not wish to permit the destruction of a self-designed system which awards them innumerable privileges. There is substantial evidence that this system has caused much disorder and confusion for humanity.

B. Religious Aspects

The Christian idea of sex and the individual, which springs from the Christian doctrine of the soul and salvation, has had great influence on the condition of women. It was inevitable that the Christian sexual ethic, insisting so strongly on the sexual virtue of women, would contribute greatly to degrading the position of women. Because the moralists were men, women took on the role of "temptress." If the moralists had been women, men would have assumed this role.

The Church affected the attitude of society toward women, and of women toward themselves, men, and society, in a very important way. Through its liturgical and educational orientations and practices, it has impressed upon women a sense of submission and dependence. This has led to the failure of men and women to develop shared activities. Until very recently, in religious ceremonies such as the mass, men had to be seated in one nave of the Church and women in the other. Women had to cover their heads, while men were permitted to have theirs uncovered. Education, even on the university level, was segregated by sex until very recently. Thanks to the new attitudes of the present Colombian government and of the Church, these discriminatory and separatist standards are coming to an end, which may open a new road to coeducation and companionship.

It is worthwhile to cite Gregory Baum, a member of the Institute of Christian Thought, who made the following reflections on the religious aspect of the problem:

The contrast within the biblical tradition is seen very clearly in the two accounts of the creation of man and woman in the Book of Genesis. In one of these man and woman are created simultaneously. "Man and woman He created them." In the other narrative woman is derived from man, taken from his side, dependent on him as master, and eventually in giving in to the serpent (a slightly veiled sexual symbol frequently used in the near East) the woman becomes the temptress of man and instigator of evil in the world. Later, it is true, other women, including Mary, the mother of Jesus, restored the broken image of woman. Even though Christian preachers have raised the position of women in some cultures (in others they have lowered it), they have never been capable of freeing themselves from the myth of masculine superiority, or of disdain for sexuality. Today, Catholic theologians have carefully considered the issue and admit that sexual morality, as taught by the Church, still reflects to an appreciable degree the fear of women and distrust of sexuality which is so deeply embedded in our religious legacy. As theologians they are searching for a way to overcome this impediment, so as to produce a more positive theology of sexuality, with greater recognition of liberty, happiness and creativity.

C. Political Aspects

1. Historical Background

- a. Independence: Only near the time of independence did women for

the first time, show politically active behavior. It was feminine action the "Movimiento Comunero" which marked the first participation of women in the national political life. The resistance arose in New Grenada in 1780, due to a tax increase imposed on the colonies by Charles III. In order to pay this increase, prices of "aguardiente" (a very strong liquor) and tobacco in New Grenada were raised. This, in turn, set off a great deal of protest throughout the territory and a revolutionary movement throughout the province of Socorro. This movement received the name "Comuneros" and had its beginnings with the intervention of Manuela Beltran. Manuela, belonging to the merchant class, was a tobacco shipper in Socorro and rebelled against the government's increase in prices. She declared her discontent publicly, destroyed the edict and thereby announced a new point of view.

Three decades later independence came to New Grenada and women made their presence felt in the insurgent movement. In the fight for independence women worked jointly, regardless of social distinctions, beside men. Their role was not one of combatant however. Women took charge of transmitting messages, concealing the movement, arranging meetings and doing what their social condition permitted. As was the case with many patriots, women were punished for their participation in the Independence movement, and died alongside their companions. Their political participation was intense, equal to that of male patriots. Policarpa Salavarrieta's home was the focal point for news; she was the central figure for receiving and transmitting messages, and it was she who knew best the course of events. Antonia Santos sustained and promoted the pro-Independence guerilla movement. Between 1813 and 1820 numerous women were sentenced to the scaffold.

b. The Republic: During the rest of the nineteenth century and even far into the twentieth, women were kept on the fringes of all political activities and even of ordinary public life. Women acted only as recipients of political decisions, without taking part in any determination. Their political behavior was limited to the sphere of political influence through social contact.

With respect to female influence on political decisions, we must mention Manuela Saenz, friend, collaborator and political confidant of Simon Bolivar. It has been confirmed that she influenced Bolivar in his decision to exile Santander, although she herself would have had him executed. It is also said that Manuelita was an influence on the heroic behavior of Jose Maria Cordoba. We find numerous other women in different roles, who played their part in the civil wars. This we know from the stories and sayings of people living at the end of the last century and the beginning of this one. Women appear as messengers, guardians of arms, faithful defenders of the party cause and monetary contributors for the support of their group.

In 1955 the government of Gustavo Rojas Pinilla decreed that "El Tiempo," one of the most important newspapers in the country, was to be closed. During this incident Colombian women assumed a very important

political attitude -- one of decided protest. They staged a highly influential public demonstration in which leaders of great foresight participated. They made the voice of the public far-reaching in support of freedom of the press.

In 1955 we find the beginnings of female access to important offices of public administration. Josefina Valencia de Huback was named Minister of Education, the first woman to occupy a seat in the cabinet. During the formation period of the "Frente Nacional" (National Front), Colombian women actively participated in a political campaign calling for a plebiscite. In December of 1957 the plebiscite took place and by means of this Colombian women received their full political rights. So began the ever-growing female participation in official administrative and judicial positions.

In recent times true female leadership has been emerging in the various political parties. Its reach extends to the national sphere, since women have come to occupy positions of authority in their parties. The influence of female leaders has been felt even in the presidential candidacy. In the 1974 elections Maria Eugenia Rojas de Moreno carried on a wide-spread campaign as leader of her party, "Alianza Nacional Popular" (National Popular Alliance).

Later, during the administration of Dr. Alberto Lleras, another woman, Dr. Esmeralda Arboleda de Uribe, occupied a cabinet post as Minister of Communications. The position of Vice-Minister of Education was held by Irene Jara de Soloranzo. The governorship of Cuaca has been held by two female governors: Alina Munoz de Zambrano and Josefina Valencia de Huback. Mayorships were admirably administered by Yolanda de Navarro in the city of Girardot and Nury Fornaguera de Carulla in Suba.

Women have increasingly been taking other positions of political importance, moving into offices as ambassadors, chairmen of administrative departments, consuls, magistrates, state advisors, and governors.

In the legislative branch, the number of women who occupy legislative seats in each of the "corporaciones" (legislative divisions) has been increased. Their number is still relatively low in proportion to the number of men, as is their influence in decision-making with regard to national issues. However, we have already begun to feel the impact of this increase and many of our laws now reflect the thoughts and feelings of women.

One year ago the election results were as follows:
5,186,648 citizens went to the polls. Of those
2,892,579 were men and
2,294,069 were women.

These figures represent 56% of the male voting populace and 44% of the female voting populace.

The election results of the "corporaciones" were as follows:
of 112 senators, there is only 1 woman;
of 112 deputy senators, 4 are women;
of 199 representatives, 12 are women;
of 199 deputy representatives, 21 are women.

In the Assembly there are:
406 main delegates; of these 51 are women;
406 deputy delegates; of these 39 are women;
41 administrative advisers; of these 3 are women;
41 deputy administrative advisers; of these 4 are women.

2. Legal Background

Legally, women in Colombia have the same political rights as men. However, until relatively recent times these rights were exercised in a very restricted way, influenced, naturally, by the traditions which have always been dominant in our society.

The first resolution which established suffrage "without distinction of sex" was Article 3 of the Constitution of the Province of Velez (1853). It stated, "All inhabitants, without distinction of sex, shall have, among other rights, that of suffrage." This constitutional ruling was in force as of 1860, but in spite of this fact, when the provincial elections took place, not one woman exercised this right.

In the Constitution of 1886 citizenship was accorded only to males over 21 years of age, and nothing was said about female suffrage. In 1933 an amendment, proposing suffrage for women, was presented to the National Congress, but it was not passed.

In 1936 the draft of a new constitution contained a proposal that women be given the right to hold public office. This right was awarded them in Article 8 of Legislative Act 1 of 1936. It reads as follows:

The status of active citizen is clearly an indispensable condition for electing, being elected, and holding a public office which carries authority or jurisdiction. However, Colombian women of legal age may hold such offices, even though they may involve the exercise of authority or jurisdiction, under the same conditions which the law requires of male citizens.

Article 2 of Legislative Act 1 of 1945 recognized the citizenship of women by providing: "Article 13 of the Constitution reads as follows: Colombian women over 21 years of age are citizens." However, for truly inexplicable reasons, when this Legislative Act was amended by Article 14, the right of suffrage remained exclusively reserved for men.

Various proposals concerning female suffrage were presented to Congress, but not until 1954 at the National Constituent Assembly, under the administration of General Gustavo Rojas Pinilla, was Article 3 of Legislative Act 3 passed. It reads: "Article 171 of the National Constitution shall be modified insofar as it restricts suffrage to male citizens."

Despite this, full citizenship was not obtained until 1957 through Article 1 of the Constitutional Reform Plebiscite. Under this Colombian women become incorporated into the Colombian political system, since this article provides that, "women shall have the same political rights as men."

It is important to examine carefully the role which women have had in the country's political process. The Colombian political system is not characterized by strong female influence. Not even the "corporaciones" have had the strong female influence which is desirable, and therefore, neither the laws nor the administrative procedures reflect the needs of women. However, there is now an awakening of female leadership, based on the capabilities and aptitudes of women.

The very presence of numerous women in Colombian politics during the last elections is evidence of a change in traditional attitudes. Their participation and collaboration, despite traditional apathy, was extremely high. More than 70% of the volunteer election personnel was composed of women and their activities dealt primarily with the circulation of the candidates' platforms and an analysis of the problems which affect the country.

The seminars on political action, which took place throughout the country in the pre-election period, mark a new epoch in Colombian politics. The degree of information and interest in political phenomena was high. The increased number of women who have been called upon to positions of importance in the government of President Alfonso Lopez Michelsen have contributed to this. In the Ministerial Cabinet of Lopez Michelsen women have an important place, for the President has entrusted them with the direction of social and labor policies.

It is worthwhile to point out a few facts related to the presence of women in contemporary politics:

- 1) In the last elections a high percentage of those participating were women, indicating a change in their traditionally apathetic attitude, as well as an interest in national problems.
- 2) Women tend toward an organization which benefits all citizens, as shown by their high level of participation in the political action seminars sponsored by the "voluntariado" (which itself is composed of 70% women). These seminars served to awaken public interest in both

political parties and in politics in general. They encouraged the understanding of politics as important for society, and as an area in which all should participate.

D. Economic Aspects

1. Beginnings of Female Participation in the Economic Life

If we look back on the system of family organization, we find the kind of structure which gave rise to the economically ordered community. In the beginning the family was the center of production, in which women worked to produce a number of necessary family items within the home.

With the rise of industry, the family ceased to be the center of production and both husband and wife were obliged to leave the home to work. Initially the man left, but soon the need for the wife to work became apparent. Her assistance was called for to meet the growing needs of the family. Women on the labor front now find themselves faced with a system which both rejects and exploits them. They are, however, preparing to fight back, aware of their value.

Under these conditions women are no longer willing to accept the meager wages given them initially as "gifts." They refuse to be exploited or denied their rights, and we therefore find them protesting, making demands and pressing them before the labor authorities. These demands have culminated in the enactment of laws regulating female labor. Fair wages have been set, work schedules established and recognition given to female social contributions. Legislation has been passed protecting maternity rights and requiring the establishment of nursery schools and day-care centers for the children of workers. This legislation has realistically recognized the need to incorporate women into the work force. However, in practice there has been little compliance with the law. Discrimination still exists and although women may be doing their jobs with ability and efficiency, the principle of "equal work, equal pay" has not been made effective.

2. Acquisition by Women of the Right to Engage in Business

Not only did Law 28 of 1932 grant women the right to administer and dispose of their property, but it also enabled them to execute acts of commercial or economic character, to be bondsmen, joint-debtors, etc. However, it must be admitted that in our society women as a rule do not have full economic freedom. Whatever a woman tries to do she is still subject to her husband's influence. Women in our society still do not possess the necessary elements to become equal partners in the development process.

On the one hand, women work as members of a capitalistic society which puts a premium on the production of consumer and exchange goods. On

the other hand women have to work in the home, and the responsibility of caring for and educating the children falls almost exclusively to her. The wife and mother of the family is not assisted and the domestic tasks which she executes as homemaker are neither recognized nor valued. Whereas women must carry the full burden in the home, they must also participate indiscriminately in paid labor outside of it. Despite this, women are considered parasites because what they do is not called "work" and is considered to be of no value. Under these conditions women are kept on the margin of production, and have to be "supported." In Colombia, up until now, each working person was said to support four others (women included in this figure). When a survey is taken, and inquiry made regarding the number of persons working in each house, the housewife is not named as a worker.

However, little by little, the value of female labor is winning recognition; above all recognition is being given to the fact that women are persons, with rights, obligations, intelligence, powers and abilities equal to those of men. Women are beginning to be considered, if not on a plane of absolute equality, at least one of close approximation.

E. Cultural Aspects

It is only natural that the situation of women has been greatly influenced by their level of education. All programs of family improvement must be based on plans for comprehensive education. These will allow us to work out the proper balance within the human couple in all aspects of society. We cannot continue to disavow the need for the education of women on all levels. Women, as mothers, teachers, wives, etc., must transmit to their children the training and instruction given them. It is quite true that "to educate a woman is to educate a family."

There are aspects of the cultural situation which influence personal development much more deeply than legal or social pressures. By infiltrating the personality, cultural situations infuse in women a positive or negative awareness of themselves. Every culture offers women an image of themselves, yet through the centuries (even into the present) this image has been conceived of and expressed by men.

Each culture defines the role of women principally through an imaginary and emotional concept of the nature and place of women in the human community. A kind of interior drama plays itself out in each woman, which usually terminates in a harmonious acceptance of this role. The role takes on the character of an obligation and constitutes an objective norm, guiding her personal aspirations and qualifications.

From the educational point of view, women's attitudes toward themselves, men, children and society must now undergo a dramatic change. In like way, change is necessary in the attitude of men toward women, and toward the family. We must now create the opportunity for women to assume

an active and responsible role and to serve family and community in conditions equal to those of men. We must now educate men, also, to give them a new value-orientation, regulating the relations between couples.

We must find the means to achieve this through:

- 1) Informal Education: Familial, social, premarital; using various means of communication.
- 2) Formal Education: The country's educational programs should be required to include specific content material concerning the value of women and the family. This can be done by creating teaching positions for this purpose. Provision for this should be made in the Family Code.
- 3) Enforcement of the Family Code.
- 4) Women's Organizations: as mechanisms to channel abilities and strengthen the position of women. We must attempt to coordinate our proposals with said organizations.

Women, being the pillars of the family, must contribute their practical experience so that government policies in educational reform do not become utopian. This is needed so that the comprehensive education required for economic growth and youth training may become a reality.

An important factor to be considered with respect to the status of women is their role in decision-making within the family. The woman's role in making decisions concerning the number of children, the size of the family, etc., is one which should be carefully analyzed. Their formerly scarce or absent participation in such decisions, and their ignorance of family planning systems, has led to many and unwanted pregnancies. This situation confronts women with the alternative of abortion, which, in turn, is accompanied by highly injurious physical and psychological consequences.

III. DISCRIMINATORY ATTITUDE OF THE LAW

Until very recently, the inferior status of women was not limited to political life, but extended into civil life, reflecting the national culture. Women were refused civil rights such as that of acting as a witness at legal proceedings, as legal guardian of a minor¹ or as "curador" (person legally responsible for administering the property of an incompetent, such as a mentally insane person). In addition, the money which women owned when they were married came to be administered by their husbands upon entering into marriage.² Married women were prohibited from appearing in court, entering into contracts, and moreover, were considered legally incompetent.³

Not until recently has a complete study been made, which reflects the thoughts and feelings of women. Although we realized that a radical change in the mentality of the people, including women themselves, was called for, the behavior of society toward women failed to reflect the real situation of women. Obsolete and antiquated laws persisted. We needed a new legal system -- one which would eliminate completely any discriminatory concept. It was necessary to raise their status through broad education programs and to establish rules of law which really corresponded to the needs and inequities of present day society.

With the enactment of Decree 2820 of 1974 all discrimination against women in the civil field was eliminated.⁴ Presently, the government is developing a broad publicity campaign for this law, as well as training men and women so that this statute may be effectively enforced. In light of the novelty of the legal family organization which this statute introduces, the program attempts to bring about a change in traditional attitudes among the people.

Not for one moment is unification of the sexes or displacement of the male proposed. The program is merely concerned with giving substance and strength to what should be the unity of the human couple.

The statute favors women, it is true, for it accords them a most fundamental human right -- the right to fulfill themselves as individuals and simultaneously to serve humanity as a constituent member of that community.

¹See Civil Code of 1873 (Articles 127, 587, and 2586), modified by Law 75 of 1968 which authorized women to act as guardians.

²Articles 177 and 180 of Civil Code of 1873.

³Articles 181, 182, and 1504 of Civil Code of 1873.

⁴See Annex A.

Women today are conscious of their worth, but when they attempt to act on the basis of that worth, they often discover that they are not free to do so. Their freedom is conditioned by limitations men impose upon them. Women continue to be "objects" and not "subjects" as they would like to be. Women cannot be independent because they have always been taught to be dependent. Finally, women have come to think of themselves as alienated beings, who must passively accept all that is imposed upon them, even at the expense of their dignity.

Today, however, women increasingly reject their alienation and refuse to have their functions either imposed upon them or limited by others. The role of women today is totally different from women's past role. In the modern world women have a very serious commitment and their activities cannot be limited to the closed circle of the family. They are challenged by the present situation and cannot remain indifferent to the world's great expectations. Although women will always be conditioned by the world surrounding them, that is, the family, and can never lose sight of their status as mothers, wives and daughters, nevertheless the world must now accept the new concept of wife-mother and wife-worker. There is no other alternative but to give women freedom of action. However, we must furnish them with the elements necessary to develop their roles fully.

If we review the history of mankind, we find that the concept of women as inferior beings, without capacity and less than human, dominated. The immense worth of women has been systematically denied and disregarded.

In the area of sexuality women have been treated as objects of pleasure. They have been exploited and debased, and in so doing the exalted state of motherhood has come to be devalued. At certain times it has become a source of shame for women.

Curiously enough at one time the issue of whether or not women had souls was debated. The conclusion reached was that they did not, insofar as it was the man who in procreating children, transmitted life. Women were considered only as receptacles for the new beings.

The most diverse theories existed about women. Very well known are the words of St. Paul who said, "Just as the Church is subject to Christ, so are wives subject in all things to their husbands," and "Man is the head of woman, just as Christ is the head of the Church." It was also said that woman was made from the rib of man and because of this humanity remained condemned to death and sin.

Great philosophers and thinkers have defined woman in the most diverse ways. Thus, Pythagoras said "There is a principle of good, which has created order, light and man, and a principle of evil, which has created chaos, darkness and woman." Balzac defined as property - "she is property acquired by contract, a movable good, for her possession entails certain rights; in short, properly speaking, woman is nothing more than an extension of man." If we attempted to transcribe here the entire gamut of

passages written with the exclusive purpose of foisting off on women all the deficiencies of mankind, perhaps we would not finish.

All these concepts have left deep and indelible impressions, which are reflected in the present difficult family situation.

In almost all of the world's countries discrimination against women exists (and possibly in all). One encounters discrimination in the family, in work, in the economy, in education, in politics, in law and in short, everywhere. Colombian laws, until recently, reflected the ancient law, which assumed the incapacity and inferiority of women. Analyzing our family situation from the point of view of the relations between the spouses and between parents and children, we find women in a situation of absolute inferiority, with men having the totality of rights.

We must bear in mind that relations between the spouses were regulated by the principle of "marital authority," which according to the definition in our Civil Code is the "set of rights which the law accords to the husband over the person and property of his wife." Although this decree was reformed by Law 28 of 1932, under which married women acquired some of the economic rights which had been exclusively reserved to their husbands, the discriminatory philosophy of the Colombian Civil Code remained.

Until very recently some of the decrees which regulated the rights of men in marriage had the following tone: "The husband has the right to force his wife to live with him and follow him wherever he wants to move his residence." As to fidelity, although our law established in principle that both spouses were obligated to be faithful, to mutually serve and help each other, there is not the slightest doubt that infidelity of the husband is characteristic of marriage in our society. Our Code, in establishing adultery of the wife and concubinage of the husband as grounds for divorce, clearly and openly institutionalized the violation of this obligation of faithfulness. This provision failed to recognize that such procedure greatly affects the stability of marriage, in addition to destroying the trust and security of the wife.

Moving on to another aspect, that of relations between parents and children, it is a fact that these were regulated by the principle of absolute dominion of the father over the children, and total disregard of all the rights of the mother. Thus, for example, the father, according to the Civil Code, had the right to correct and punish his children and to choose their status and profession. It was the father who administered and enjoyed legal title to the fruits or profits of his children's property (right of usufruct). Even in dealing with a demented child, the law gave charge of the child to the father, when in the critical moments of life it is the mother who invariably and diligently concerns herself with her children.

From all the above, looking at the situation without prejudice, we

must accept the conclusion that in many cases the responsibility of the father in our society left much to be desired. It was unjust that the mother continued to be considered an inferior being and that all her rights within the family should have gone unrecognized. A superior being who stands over wife and children, giving orders and handing down decisions, is not necessary. Society has changed. Thus, if we place before the children the strong pillar of equality of the human couple, and reaffirm the unity of parents, we are sure to gain their support. For the children a radical change of systems, structures, and even more, of laws, is necessary.

It is therefore obvious that a step of transcendental importance was taken in our country with the enactment on December 20, 1974 of the "Statute of Women" (Decree 2820).^{*} By doing this, effective correction of the discriminatory content of laws was initiated. Presently, all laws are being re-examined with the purpose of erasing whatever vestiges of inequality remain. Moreover, the enactment of the "Statute" has opened the way, so that women may participate in all the country's activities.

However, notwithstanding the new law, the problems of the Colombian family are still growing worse with each day. There are serious signs of decay, calling for, not only immediate research, but also intensification of a broad publicity campaign to achieve rapid enforcement of new legislation. I consider it necessary that, in addition to studies and research, an extensive consciousness-raising campaign be undertaken, which will attempt to reach all the people. I therefore propose that exploratory projects be undertaken to familiarize ourselves with the opinions of citizens in different social strata and different parts of the country. I further propose that surveys be made and that the collaboration of all sectors be solicited, for in so doing we will be able to carry out a significant study in which all Colombians should take part.

To this end, I drew up the model for a seminar (see Annex B) which is presently taking place this year in the country.

^{*}See Annex A.

IV. POLITICAL RIGHTS AND PARTICIPATION IN PUBLIC AFFAIRS

A. Right to Vote

Presently Colombian women are legally able to exercise full political rights. They can elect, and be elected to all state offices, including President of the Republic.

The Colombian Constitution of 1886 decreed:

Article 15: Colombian men, over 21 years of age who exercise a profession, art, office, have a licit occupation or other legitimate and known means of subsistence, are citizens.

Article 18: The status of active citizens is an indispensable precondition to the exercise of electoral functions and ability to hold a public office which involves the exercise of authority or jurisdiction.

In conformity with the above provisions, the rights of citizenship were reserved exclusively to men. Moreover, women were prohibited from voting.

In 1936 in a constitutional reform, it was decreed that:

Article 14: The status of active citizen is a pre-condition, indispensable for electing, being elected, and holding a public office involving the exercise of authority and jurisdiction. However, Colombian women, of legal age, may hold offices which involve the exercise of authority and jurisdiction under the same conditions which the law requires of citizens who hold them.

Notwithstanding, the fact that women did not have the status of citizen, this reform enabled women to hold offices which involve authority and jurisdiction.

In the Constitutional Reform of 1945, Articles 14 and 15 decreed that:

Article 14: Those Colombians who are over 21 years of age are citizens. Citizenship is lost when nationality is lost. It is also lost or suspended by virtue of judicial decisions in cases which the law shall determine. Those who have lost their citizenship may petition for its restoration.

Article 15: The status of active citizen is an indispensable precondition for electing, being elected and holding public office involving the exercise of authority and jurisdiction. However, the right of suffrage and the ability to be elected by popular vote, is reserved to men.

With this reform women were given the status of citizens, but they were not authorized to vote. This amendment was illogical, for women should, from then on, have been authorized the right to vote -- the most important of political rights.

By means of Legislative Act No. 3 of 1954, women were granted all of their political rights. They did not, however, have the opportunity to ex-

ercise their suffrage right, for no public elections took place during the period of the law's effectiveness. With regard to voting, the Plebiscite of 1957 only recognized the Constitutional Reforms of the Charter of 1886 up to and including 1947. It was therefore necessary to add the following as an amendment to the plebiscite:

Article 1: Women shall have the same political rights as men.

The scope of this language is clearly too narrow since it protects only political rights and not all rights. However, in the political field, the most recent statistical data we have indicates that women have played a highly decisive role since receiving the vote.

Turning to other electoral functions, as we saw in the Constitution of 1886 in order to exercise electoral rights, citizenship was required, a status which was exclusively reserved to men. On the basis of this, Law 7 of 1932 was enacted, which in clause 3 of Article 6 provides:

"In order to be an election referee ("jurado de votacion"), the status of active citizen, as well as the ability to read and write is required. One may not be a member of the judicial branch of government, nor of the Public Ministry."

It was decided that women could not, under this language, be election referees. This situation existed until the Decree of Constitutional Reform in 1945, by which women were accorded the status of citizens. Consequently, from that time forward, women have been eligible to act as election referees.

B. Military Service and Participation in the Peace-keeping Forces

In Colombia military service is obligatory. Under Article 165 of the National Constitution, "All Colombians are obligated to take up arms when public need requires, in order to defend the national independence and institutions." This constitutional clause further establishes that the law shall determine the conditions under which one may be exempted from military service.

Military service is regulated by Law 1 of 1945, Article 3 of which provides that:

"All Colombian men between 18 and 50 years of age are required to render military service in the army:

1. As soldiers in the front line of the army:
 - a) in active service for one year; this term shall begin on January 1 of the year the individual becomes 20 years of age. The Government is authorized to extend the period of service to two years, in case of manifest necessity.
 - b) in the first and second class reserves until December 31 of the year in which he becomes 30 years of age.
2. In the second line of the army or National Guard: as members of the first or second class reserves from January 1 of the year the individual becomes 31, until December 31 of the year in which he becomes 40 years of age.
3. In the third line of the army or Territorial Guard: as members of the first and second class reserves, from January 1 of the year the individual becomes 41 to December 31 of the year in

which he becomes 50."*

The degree of coordination which has been established between the Peace-Keeping Forces and other forces in the country is admirable. This has contributed enormously to the peace and tranquility of the Colombian nation.

C. Women's Activities in Political Affairs

Colombia is a democratic and representative republic. Her government is "of the people, by the people and for the people." Three branches of power exist: the legislative, which makes the laws; the executive, which governs and administers in accordance with said laws, and the judicial, which enforces the law.

All Colombians of legal age now have the right to elect their governing officials, and to be elected. Citizens directly elect Councilmen, Delegates to Departmental Assemblies, Representatives to the House of Representatives, Senators and the President of the Republic.

It is the duty of citizens to become familiar with the positions of the various political parties, to take note of the decrees of the Civil Registry, and to obtain a certificate of citizenship upon reaching legal age. The Union of Colombian Women Citizens ("U. C. C."), a women's organization, renders extraordinary service in supplying information to the national community of voters. The U. C. C. is a non-partisan civic-political organization open to all. It endorses the universal principles of democracy.

The Tenth National Convention of the U. C. C. met in the city of Cartagena. Its purpose was to reaffirm the group's adherence to the principle of political impartiality, which in turn prohibits it from supporting or censuring any political party or candidate. It was declared that insofar as the U. C. C.'s objective is to stimulate the participation of all citizens in the nation's political life, they should promote genuine ideals of progress and true social justice.

Consequently the Union agreed to support all measures tending to:

1. raise and protect the dignity of the human person
2. foster tolerance, discouraging all forms of violence
3. eliminate discrimination on the basis of race, sex, religion or economic condition
4. strengthen true representative democracy in order to achieve a more just distribution of income; this would permit all citizens to exercise their rights to education, employment, security, health and recreation.

The U. C. C. promotes political responsibility by means of active participation of female citizens in the government. In order to achieve this goal, the organization offers the public information about government functions and duties, as well as information concerning the rights of all citizens. It attempts to develop enthusiasm for national institutions and interests through civic education and to make all Colombians civically aware,

*Note: This law was modified by Decree 1393 of June 21, 1956 and was regulated by Decrees 2200/46, 1559/55 and 1643/60.

so that they are able to participate actively in the government of their country.

The present government, living up to the election promises of the President, Dr. Alfonso Lopez Michelsen, has appointed many women to important offices in public life. Here women exert great influence and participate actively in government decision-making.

Women have begun to assume positions throughout the government, as shown by a chart attached as Annex C.

V. FAMILY LAW AND RELATED PROBLEMS

A. Introduction

In Colombia the family is not considered a legal "person." The law is individualistic in character, the members of the family having individual rights and obligations. The family has no autonomous legal capacity and does not acquire it apart from the various members.

Although the family is the basic institution of Colombian society, the various laws which regulate the family institution are not drafted in a way which permits a collective concept of family protection and obligations. Under Article 16 of the National Constitution, "The authorities of the Republic exist to protect the lives, honor and property of all Colombian residents, and to assure the fulfillment of the State's social obligations."* Thus, there is no rule which establishes the State's obligation to protect and watch over the family, although laws granting civil and social guarantees to its constituent members abound.

For example, with regard to education the parents have the right to educate their children. If it is not possible for them to give their children quality education they have the right to select educational institutions where this natural desire may be fulfilled. In the same way, children have the right to demand care and education from their parents. With regard to this, we must recognize the fact that presently great advances are being made. These tend to channel efforts in order to provide sufficient guarantees for the different dimensions of family life. The State supports reciprocal obligations of constituent family members and in addition, helps and supervises parents, so as to assure the fulfillment of their obligations toward their children. In no case, however, may the State meddle in the private affairs of the family.

As a general rule, regardless of their civil status, whether single, married or widowed, women today are subject to the same regulations as men in the eyes of the law (Article 33 of the Colombian Civil Code "C.C.C."). They are persons or individuals of the human race (Article 74 C.C.C.) who may enter into contracts or assume obligations under the same conditions as men (Article 1494 C.C.C.). All that the law decrees concerning "persons" is applicable to both sexes, unless the legislature expressly decrees differently.

Historically, since Colombian Civil Law is derived from Roman Law, we find that our legislation stressed the power of the father and husband. This was more or less a continuation of the property rights which the father and husband exercised over his wife and children. In order for

*Article 9 of Legislative Act No. 1 of 1936.

this authority to have meaning the legal fiction of female incapacity was introduced. To the father and husband went the administration of property, as well as the judicial or extra-judicial right to represent his children and wife. This concept was codified in Article 170 of the Colombian Civil Code, which defined marital authority as the set of rights which the law accords to the husband over the person and property of the wife. Furthermore, Articles 46 and 1504 of the Code codified the civil incapacity of a married woman and her legal representation by her husband. With respect to the "sociedad conyugal" (the corporate society formed by the husband and wife at the time of marriage), Article 1805 of the Code declared that the husband was the chief and as such, might freely administer both the communal property and the property of his wife.

However, through Law 28 of 1932 the excessive authority of the husband was largely removed. This act authorized married women and those of legal age to appear freely in court and to enter into contracts without the authorization of their husbands. It also repealed the provision that husbands must represent their wives. In so doing, men were no longer to act as heads of the "sociedad conyugal," and each spouse was empowered to administer and dispose freely of such property as he or she owned at the time of marriage or had acquired thereafter.

With the enactment of Law 28 of 1932 equality of rights for the spouses was established with regard to property. However, with respect to the person, the system of marital authority, with all its implications and legal consequences, lived on. Despite the civil capacity accorded to married women in Law 28, women were not permitted to exercise all of their civil rights. This situation persisted until December 20, 1974, when Decree No. 2320, commonly known as the "Statute of Women," was issued. (See Annex A.)

B. Laws Regarding Entry Into Marriage

1. Legal Representation

Article 62 of the Civil Code provided, before its amendment in 1974:

Legal representatives of a person are the father or husband under whose authority one lives, or one's tutor or guardian. Legal representatives of legal persons are those designated in Article 639.

Before Law 28 of 1932 came into effect the husband was the legal representative of the wife because she was considered to be without legal capacity. These discriminatory rules had their origin in the philosophy of the Civil Code, which established the limited capacity of women, a limitation which extended to the point where she could not even legally represent her own children.

Under Decree No. 2820 of 1974, Article 62 of the Code was amended to read:

Persons without the legal capacity to enter into contracts shall be represented by:

- 1) the parents, who shall jointly exercise the "patria potestad" over their children under 21 years of age. If one of the parents is lacking, legal representation shall be exercised by the other.
- 2) the "tutor" or "curador" who has care of: a minor under 21 years of age and is not subject to "patria potestad;" or of insane persons, profligates or deaf-mutes who are not able to make themselves understood in writing.

2. Parental Consent to Marriage

Article 117 of the Civil Code provides:

Those under the stated age may not enter into marriage without the express, written permission of their legitimate or natural parents. If one of the parents has died or is somehow unable to give this permission, the consent of the other will suffice. If there is disagreement between the parents with regard to the issue, the will of the father shall prevail.

There is no reason for the will of the father to prevail in such a case. In so providing, the authority which the law confers upon the mother is greatly weakened. In a case of disagreement between the parents, the will of the father should not prevail, and the case should be submitted in a brief and succinct manner to the decision of legal authorities. It can not be generalized that men, by the mere fact of being men, have the best basis for judgment in deciding the definitive questions of a person's life, such as marriage. This applies particularly to the mother, who generally stays close to the lives of the children, especially when dealing with daughters.

C. The Right Of The Wife To Her Maiden Name

In Colombia, by reason of marriage, women do not lose the right to the use of their maiden surnames. However, as a result of their dependence upon their husbands, women are obliged to take their husbands' surnames preceded by the preposition "de" (cf).^{*} This obligation, which formerly

^{*}Decree No. 1003 of 1939, Art. 31.

had a legal basis, is now based only on tradition, since Decree 1003/39 was repealed by Decree No. 1260 of 1970. Clearly, this practice had its origins in the general attitude which viewed married women as legally incapable. Consequently, it was necessary to make a distinction between married and single women, since married women had to be legally represented by their husbands.

If we analyze this practice in light of the changing role of women in society (that is, as active members of the production force), it is clear that the change of name for a married woman does her more harm than good. Its sole purpose is to allow others to distinguish between single and married women.

Nowadays women are active in business, industry and in the professions, working shoulder to shoulder with men. Everyone who is active in these fields acquires prestige, "a name," which constitutes a very valuable part of his or her reputation. When women marry, however, they are obliged to adopt their husband's surname, even though their reputation may have been acquired under their maiden name. In doing this, a woman must establish herself again under her new name.

This type of discrimination represents a serious attack on the economic interests of women. If we compare this situation to that of the male, it is evident that the disadvantages are great. The business, prestige and name of a married man remain the same, and consequently, his earnings and economic progress do not stagnate as a result of marriage. With women, however, this is not the case.

In defense of this practice it has been argued that the name change of the wife is only natural in light of the fact that the children take the surname of the father. This argument has little legal validity, although it has great support in our male-dominated culture, where fathers give their names to legitimate children and mothers only give theirs to extra-marital children.

Another kind of discrimination and punishment for women is that of the single mother, who is subject to scandal and reprobation for life, while the blame she incurs is actually the result of the irresponsibility of both parents.

From a human point of view, children in many cases, if given a choice, would choose the mother's name. This might occur when the father, either in his public or private life, had for some reason brought the family to shame and had become an object of dishonor or hate for his children.

D. Right Of Women To Administer Property

In Colombia today women may exercise property rights freely. Like men, they may work and enjoy all the benefits which business and industry

offer. Under Article 30 of the National Constitution, "Private property and other rights acquired in accordance with the law by natural or legal persons, are guaranteed. Said rights may not be ignored nor violated by subsequent laws." "Private interests must yield to public or social interest." "The right of property has a social function which implies obligations."

Colombia adopted the Chilean Civil Code, drafted by Andres Bello, in 1887. This had been influenced by the French Napoleonic Code which made the wife wholly subordinate to her husband, and institutionalized the legal incapacity of women. Married women could perform no property transaction without the intervention of their husbands. This incapacity was somewhat modified by new laws in 1922, 1925 and 1928. The rules governing property in marriage were wholly changed by Law 28 of 1932, under which the legal incapacity of women came to an end, and the "sociedad conyugal" was put into effect.

1. The "Sociedad Conyugal"

The "sociedad conyugal" under Colombian law is a unique institution with particular characteristics which distinguish it from other legal institutions. Spouses form a "sociedad" from the time of their marriage. Historically, the administration of the "sociedad conyugal" belonged to the husband exclusively. Before third parties he acted as the owner of communal property, as if this property, together with his own, formed a single conglomerate. The husband freely administered his wife's property with few limitations imposed upon him by either the law or the marriage contract.

However, Law 28 of 1932 established a different kind of property system. This law did not do away with the existence of the "sociedad conyugal" and indeed, the text of the law shows that the concept of "sociedad conyugal" forms an essential part of the reform. Article 1 asserts that in dissolving the marriage or liquidating the "sociedad conyugal" it is understood that the spouses have formed this "sociedad" since the celebration of their marriage.

It is clear, therefore, that the reform did not do away with the concept of "sociedad conyugal." However, it changes radically the system of property disposition and administration. Before third parties the husband is no longer the owner of communal property, nor does this property, together with his own, constitute a single conglomerate. From the moment of the law's enforcement, each spouse was able to dispose of and to administer his or her own property, as well as that acquired individually since the first of January 1933. The "sociedad" now has two administrators, rather than just one. These administrators have autonomy over their own property and each must answer to third parties for the debts which they personally incur. Creditors may take legal action against the property of the indebted spouse. However, they may not take action against

property held jointly ("solidaridad"), as established by Article 2.*

With regard to property in a marriage, under the Civil Code system one must distinguish three categories: property of the husband, property of the "sociedad conyugal" and property of the wife. Previously when dealing with third parties the property of the "sociedad conyugal" and that of the husband were confused. Once dissolved, however, the "sociedad conyugal" had an effect on the property to be liquidated in connection with the determination of the contributions and recompenses of each spouse.

It is clear that the legislature has preserved the institution of the "sociedad conyugal" as a link of property binding the spouses and acknowledged by them. One cannot say that the legislature was not concerned with the preservation of the "sociedad conyugal" by comparing it with ordinary corporations. The "sociedad conyugal" is a unique institution with characteristics peculiar unto itself, distinguishing it from any other legal institution.

The "sociedad conyugal" exists from the time of the marriage's celebration. Upon dissolving it, communal property existing at that moment (be it in the control of either of the spouses) must be liquidated in conformity with the rules of the Civil Code and the new system (Article 1, Law 28 of 1932).

Although the "sociedad conyugal" no longer makes unfair legal distinctions between husband and wife, there is still a case where, in practice, a change is required, namely, the retirement pension. In practice, retirement pensions have been excluded from the property of the "sociedad conyugal," thereby harming a spouse who is economically unprotected (usually the wife). It is therefore recommended that a law be drafted which clearly states that the retirement pension paid by public or private entities to separated spouses be considered communal property, to be distributed in accordance with the Civil Code. This should be done if the two spouses have been together for even half the time necessary to obtain the pension.

* Article 2 of Law 28 of 1932 states: "Each of the spouses shall be responsible for the debts which he personally incurs, with the exception of those incurred to satisfy ordinary domestic needs, and in bringing up, educating and caring for the well-being of their common children. With respect to these, the spouses will respond jointly and proportionally between themselves, in conformity with the Civil Code."

2. Equality of Property Rights

Law 75 of 1968 completed the process of equalizing the rights of the two spouses, which was begun by Law 28 of 1932. Under it, married women who are minors are deemed to be of legal age.

Thus, under these two laws, the legal capacity of married women in regard to property transactions was made complete. Women who marry continue (like their husbands) to have the same legal capacity as before marriage in both extra-judicial acts and in acts which concern the acquisition, administration, and disposition of property.

With regard to the property which the wife contributes to the marriage, or which she acquires during the marriage (be it her own property or property which may later be determined to have been common), she may:*

- 1) Enter into contractual or non-contractual agreements for its maintenance, repair or improvement. She may do this regardless of whether said agreements call for large or small scale development work, realization of profits, or merely administration. (Articles 1 and 5 of Law 28 of 1932)
- 2) Enter into contracts in general, draw, endorse and accept notes and securities, buy, rent, enter into contracts which place obligations upon her, and make donations. (Articles 1 and 2 of Law 28 of 1932)
- 3) Perform acts which in themselves cause transfer of ownership, for example, making payments, contracting loans, giving donations. In addition, she may perform acts which lead to the transfer of ownership, such as leaving collateral or taking out a mortgage. (Articles 1 and 5 of 1932)
- 4) Effect other acts of property transfer, such as credit-giving, abandonment or assignment, remittance of credit existing in her favor. (Articles 1 and 5 of Law 28 of 1932)
- 5) Act as creditor, lender, or recipient of life-pensions. Article 1 of Law 28 ratifies this right when it refers to property acquired by the wife during the transitory separation of property.
- 6) Accept inheritances with or without an inventory.
- 7) Enter into contracts which provide for life-long pensions.
- 8) Carry out all civil acts which concern property. This was the purpose of Law 28 of 1932.

E. Right of Wife to Litigate and Appear in Court

Formerly, married women were not allowed to take legal action, either in their own names, through the prosecutor, or through a power of attorney;

*The transactions cited herewith do not include contracts between spouses, which are not discussed herewith.

nor could they testify in court. This was the case except in legal proceedings against their husbands, in criminal affairs or police inquiries directed against the wife (Article 18 C.C.C. and 558 Code of Civil Procedure). All claims against the wife were directed to the husband (Article 310 Judicial Code).

If the wife wanted to take legal action, the husband acted as her representative. If he refused or was absent the wife could not file any charges, unless she was authorized to do so by a judge. However, with the authorization of her husband, she could intervene in order to file charges against another or defend herself.

Women were given the right to demand before a court of law that their husbands fulfill their obligations to them. Whatever was the reason for her appearance in court, the husband was obligated to provide his wife with all the assistance necessary for her legal action and judicial defense (Article 1.1, clause 3 of C.C.C.).

This situation was changed radically by Law 28 of 1932, Article 5 of which states:

A married woman of legal age may freely appear in court. In administering and disposing of her property she does not need marital authorization, nor the permission of a judge. Furthermore, she does not need her husband to act as her legal representative.

This decree came about as a consequence of the legal capacity provided by Article 1 of the same law. It would not be logical for women to have full legal capacity, yet still have to ask authorization for their acts from their husbands or from a judge. Thus, through this law, women were given the autonomy needed to appear in court.

F. Rights of Wife in Regard to Intra-Family Relationships

The old Civil Code defined parental authority as the set of rights which the law accorded to the father over his non-emancipated children. In no case did these rights belong to the mother. They were conferred upon the father to be exercised over his legitimate children and the legal approach was one of power over, rather than duty towards, the children.

Article 13 of Law 45 of 1936 introduced a reform in establishing that parental authority is the set of rights which the law accords to the parents over their non-emancipated children to help them in the fulfillment of the duties which parenthood entails. "These rights are to be exercised over legitimate children by the father and in his absence, the mother, as long as she lives decently and does not remarry."

Law 75 of 1968, commonly known as the "Law of Responsible Parenthood" has as its purpose the defense of both the wife and children. It called upon competent government officials to undertake legal proceedings designed to establish previously unrecognized parental relationships.

A new factor in the law was the introduction of the problem of the "natural" child (child born out of wedlock). The new law recognized the problem as one which not only concerns the mother, but also the State. It promotes legal proceedings aimed at establishing the responsibility of the father with respect to all his children.

With regard to legitimate children, whereas previously the father had exercised all rights over the children, Law 75 authorized the wife to exercise them when, for whatever legal reason, the father was absent. The reform also provided that the remarriage of a widowed mother was no cause to suspend her parental authority, as had been the case in previous legislation. Furthermore, wives were authorized to act as "tutora" and "curadora," except with respect to common law husbands ("marido visitador").

Under the old Civil Code the wife could only act as "curadora" for her husband if he was insane. Moreover, she was then responsible for the administration of the "sociedad conyugal." The roles of "tutora" and "curadora" are analogous in meaning, differing only in that the first refers to care of and responsibility for minors, and the second to persons of legal age who are declared incompetent. Article 5 of Law 28/32 established that wives could act as "curadoras" for their husbands, but the legal requirement of marital consent to do so, still remained. In Article 22 of Law 75/68, it was decreed that women could act as "tutoras" or "curadoras" under the same conditions as men.

Under Article 539 of the Civil Code, a woman may not act as "curadora" for her profligate husband. This decree is based on the fact that the profligacy only affects the administration of his own property. He maintains, however, marital authority. This situation is a truly reproachable one, if we bear in mind that in this way the wife is deprived of any authority with which to look out for the interests of the family.

Decree No. 2820 (Annex A), designated as a decree "under which equal rights and responsibilities are provided for men and women," eliminated almost all the historical discrimination in the Civil Code against married women in this field. Both parents were given the same parental authority over the children. As to the obligations of children toward their parents, Articles 250, 251 and 411 of the Civil Code declared respect and obedience to be obligations due only to legitimate parents. However, the 1974 law decreed that said obligations are owed to both legitimate and "natural" parents.

There are, however, a few points which still require attention.

One of these is Article 599 of the Civil Code, which provides:

If the legitimate, natural or adopted mother, or the female guardian, wishes to remarry, she must register this desire with a judge or prefect, so that he may name a person to assume her role (as administrator of the children's inherited property); if this is not done, she and her new husband shall be jointly responsible for this administration. The new husband shall be jointly responsible for the actions of the guardian prior to their marriage.

Implicit in the spirit of Article 599 is the notion that women simply do not have the capacity to take care of the administration of their children's goods. Instead, the influence and decisions of the second husband are required. This inequality is clearly revealed in the rule that the widow and her husband shall be jointly responsible for administering the property of her children. It is clear that the legislature in making this law was influenced by the notion that women are not capable of protecting their children's interests. Said capability, however, is attributed to males.

Another discriminatory practice is in connection with the right to accept or reject parental recognition. In accordance with clause 2 of Article 242 of the Civil Code, women were considered legally incapable, as pointed out above. Therefore, they could neither accept nor reject legitimization by their parents without the consent of their husbands or a judicial authority.

It is truly inexplicable how the legislature could submit such a delicate, personal and intimate act as recognition, to the consent of the husband. However, this situation became established in civil legislation. Often the reasons for legitimizing a child born out of wedlock are of a social order, and this decision should only be in the hands of the person involved. However, insofar as the dominant concept of the Civil Code was of an economic order, this rule was introduced, violating fundamental principles of human rights -- specifically, the right to decide freely for or against the recognition of one's parents.

Although some treatists hold that Law 75 of 1968 changed this situation by giving full decisive legal capacity to married women over 18 years of age, I feel that this regulation should be completely revised. Married women should be specifically accorded their legitimate right to accept or reject parental recognition.

G. Laws Regarding the Dissolution of Marriage

In Colombia full divorce, which terminates all marriage ties, still does not exist; there is only "separacion de cuerpos" (separation of bodies).

The divorce dealt with in our law, does not break the marriage bond; it simply suspends the common life of the spouses (Article 153 of the Civil Code). In dissolving a marriage the spouses may request liquidation of the "sociedad conyugal" and the separation of property. Once granted, the wife may dispose of, make use of, and profit from, her separate property.

Trials concerning annulment and divorce in Catholic marriages are in the jurisdiction of the Ecclesiastical Tribunals, which operate under Canon Law. Judgments rendered are recognized by the civil authorities under Article 51 of Law 153 of 1887 and under the Vatican Concordat of 1973.

With regard to custody of the children, Canon 1132 of the Roman Catholic Canon Law decrees:

Once the separation has been declared, the children shall be educated by the innocent spouse. If one of the spouses is non-Catholic, the children shall be educated by the Catholic spouse (provided that in specific cases the Ordinary does not state otherwise), bearing in mind their well-being, and providing for their Catholic education.

Article 154 of the Civil Code formerly provided the following grounds for divorce: adultery of the wife; concubinage of the husband; habitual intoxication of one of the spouses; the wife's absolute abandonment of her duties as wife and mother, and the husband's absolute abandonment of his duties as husband; and humiliation, cruel treatment, and physical abuse, if they endanger the life of the spouses or make domestic peace and tranquility impossible.

This made an unfair distinction between the obligation of faithfulness imposed on the wife and that which was imposed on the husband. Decree 2820 removed this distinction and provided in Article 4 that extra-marital relations of either spouse are grounds of divorce. The same decree abolished the provision in Article 176 of the Civil Code which declared that wives owed obedience to their husbands.

With regard to annulment of a marriage, under Article 149 of the Civil Code, children procreated in a marriage which is annulled were considered legitimate and remained under the authority of the father. They were to be fed at the expense of both, a situation which was tacitly modified by the 1974 law, which establishes a system of shared authority.

VI. PENAL CODE

A. Polygamy

In Colombia, polygamy is not a crime under the Penal Code. In practice, it is quite common for a man to live with various women and a woman with various men.

Many problems arise from this situation, one which directly influences the situation of mother and child. One example of this is the problem of support faced by the mother of children fathered by different men.

Due to this situation women are also confronted by grave problems of unemployment and economic difficulty. These often induce them to turn to prostitution and their children to beggary and vagrancy, leading to the complete destruction of the family.

This grave problem was partially remedied by the enactment of Law 75 of 1968, (the Law of Responsible Parenthood), which made failure to fulfill familial obligations a criminal offense.

B. Non-Support of Family

Under Law 75 of 1968, Article 40, whoever without just cause evades legal obligations of assistance, be it moral or substantive, to his parents, grandparents, children, brothers, adopted children, or spouse (even if the man is divorced through no fault of his own and has never been involved in adultery), shall be subject to from 6 months to 2 years imprisonment and a fine of from 1000 pesos (\$1000) to 50,000 pesos (\$50,000).

When dealing with legitimate parents or children, penal action shall only be taken against the immediately responsible relative.

There is a failure of moral assistance when one intentionally fails to meet one's obligation of mutual assistance, education and care of offspring.

When the person seeking assistance claims to be an illegitimate child, he must first prove the paternity.

C. Bigamy and Illegal Marriages

According to Article 358 of the Penal Code, a person who is bound by a valid marriage with another, and a person who, being uncommitted, knowingly enters into a marriage with a legally married person is subject to a penalty of 6 months to two years imprisonment.

The nature of bigamy and its consummation is under discussion by various authors. Some think that it is a permanent offense, others that it is instantaneous with permanent effects (as is claimed by the Germans). This last point of view is applicable to Colombia. Here the prevailing opinion is that the offense is instantaneous since the offender is unable to suspend his legal status.

As to other illegal marriages, there are further impediments which are the basis for annulment. With regard to Catholic marriages, these include: being under the minimum age (16 for men and 14 for women), impotence, error, force or fear, abduction, holy orders, solemn religious profession, previous

marriage, disparity of religions, crime, consanguinity, affinity, spiritual and legal relationship. (Canons 1067-1093 of Code of Canon Law).

Under Article 359 of the Penal Code, he who knowingly enters into marriage with an impediment which dissolves the validity of said marriage and he who knowingly marries a person with said impediment, is subject to the same fine as indicated above.

D. Adultery

Adultery is not classified as a crime in our Penal Code, but it may serve as grounds for the reduction of a criminal penalty in a homicide case.

Article 382 of the Penal Code provides that if the spouse, father or mother, brother or sister, commits a homicide against, or causes injury to a spouse, daughter or sister, found having illegitimate intercourse, or if he causes said injury to the other participant in the act, the penalty shall be diminished by one-half to three-quarters.

The preceding is also applicable to a person who, in a fit of anger or intense pain caused by said offense, commits a homicide or injury to the aforementioned persons, even if he does not surprise them in the act of intercourse. Under special circumstances, a judicial pardon may be granted.

E. Abortion

A woman who in any way induces her own miscarriage or allows another to perform an abortion upon her shall be subject to imprisonment of one to four years.

The same penalty is applied to a person who procures an abortion with the consent of the pregnant woman. A person who performs an abortion without her consent shall be subject to imprisonment of one to six years.

If because of the means employed, an abortion causes the death of the mother, the punishment provided in Article 367 for persons who effectively induce the suicide of another shall be applied. The penalty is three months to two years imprisonment. If the person has taken said action on ignoble or anti-social grounds the penalty shall be doubled.

If the person responsible for any of the above offenses is a doctor, surgeon, pharmacist or midwife, the penalty shall be increased by up to a third. Furthermore, the right to exercise his profession will be suspended for from two months to six years.

If the abortion has been performed to save the honor of the person responsible, or that of the mother, wife, children, adopted daughter or sister, the penalty may be diminished by one-half to two-thirds, or judicial pardon may be granted *

F. Infanticide

A mother, who in an attempt to save her honor, kills her child at the moment of birth or within the eight days which follow (when the child has

*Article 386 to 389, Penal Code.

not yet been registered in the civil registry), shall be imprisoned for from two to six years. The same penalty shall be applied to anyone who commits such an act to save the honor of the mother, child, adopted daughter, or sister.¹

G. Procuring

A person who, with the intention of profiteering and of satisfying the carnal desires of another, induces a virtuous woman to prostitution, shall be subject to the penalty of a fine and imprisonment of from 6 months to 2 years if the person whose prostitution he brings about is over 18 years of age. The penalty is greater if the woman is younger.

The penalties indicated above are increased by up to one-half in the following cases:

- 1) If the acts listed above are committed habitually
- 2) If the responsible person holds any status, position, or office which gives him particular authority over the victim, or cause her to trust him
- 3) If the responsible person in order to obtain his end, employs physical or moral violence, deceptive stratagems or tricks of any kind.

A person who, with the intention of profiteering, and through physical and moral violence, with deceptive stratagems or tricks of any kind, arranges for a prostitute to enter a brothel, with the purpose of exploiting her, or obliges her to remain in one, or carry out abnormal sexual practices, shall be subject to fine and imprisonment for from one month to one year.

The penalty indicated in the previous clause shall be increased by up to one-half in the following cases:

- 1) If the woman was taken out of the country with the intention of exploiting her
- 2) If the person responsible is parent, child, direct relative, or brother of the victim.

The father, husband, brother or son of legal age who with the intention of profiteering, sponsors or tolerates the prostitution of the daughter, wife, sister or mother, shall be subject to from one to four years of imprisonment.

If the person responsible for the above acts is a foreigner, he shall, in addition, be expelled from national territory.

Law 12 of 1933 ratified the international convention passed in Geneva on September 30, 1921, which seeks to repress the trade of women and children, known as the "White Slave Trade."²

The Colombian Penal Code also imposes penalties for other sex-related crimes, including: Sexual Violence, Venereal Contamination, Seduction, Sexual abuse, Abduction, Incest, Corruption of minors, and Child Abandonment or exposure.

¹Article 369 of the Penal Code.

²Articles 327 to 332 of the Penal Code.

VII. RIGHTS OF WOMEN WITH REGARD TO PREGNANCY
AND MATERNAL HEALTH INFORMATION AND SERVICES

In Colombia a national health plan exists which protects women in the following ways:

- 1) Specialized services give adequate medical attention to pregnant women who require it, as well as pre- and post-natal care.
- 2) Programs of health education put special emphasis on sex education and family planning. These promote a change of attitude with regard to sexuality and responsible reproduction.
- 3) Coordination of intra- and intersectorial activities in the field of health, family protection, maternity and childhood.
- 4) Nutrition education programs give priority to pregnant mothers and children under seven years of age.
- 5) Programs developed by the Colombian Institute of Family Welfare deal with education for family life.
- 6) Educational and informational programs teach about existing family planning methods in the hope of giving the husband and wife a chance to decide jointly the number of children they would like.
- 7) The Institute of Cancerology and the Profamilia organization operate and advocate the defense of female health, especially with regard to the prevention of cancer, sickness and mortality brought on by abortions.

VIII. ECONOMIC AND SOCIAL LAWS

A. Employment and Labor

When women entered the labor market, leaving behind the limited and traditional work of the home, they found themselves confronted by many serious labor problems. In the majority of cases women were not given access to employment, or restrictions were imposed upon them. Some of these restrictions arose from the nature or dangerousness of the job, but most of the difficulties arose from the wages, which were invariably lower than the wages paid to a man, even though both might be doing the same job.

Thus, women had to fight for equality in areas as important as salary, day and night labor, duration of the work schedule, payment for overtime, minimum age to enter the employment market, paid Sunday rest, annual paid vacations, pregnancy leaves, assistance while nursing, nursery schools, and above all, equal pay for equal work.

1. Equal Access to Job Opportunities

Article 10 of the Labor Code establishes that all workers are equal in the eyes of the law, being entitled to the same protection and guarantees. Consequently, all policy distinctions between workers made on the basis of the intellectual or material character of their labor, or on the basis of its manner of payment, were abolished. All persons were given the right to work, and the freedom to choose their profession or occupation. Although originally, sex was not specifically referred to in the law, Decrees No. 2662 and No. 3743 in 1950 finally dealt with the issue. The daily work schedule was established as that which could be suitable to both sides, or, lacking agreement, the legal maximum, the duration of which is 8 hours a day and 48 hours a week, with the following exceptions:

- a) in agricultural, live-stock, and forestry labor, the maximum work schedule is 9 hours a day and 54 hours a week.
- b) in discontinuous or intermittent activities and for watchmen, the daily schedule can not exceed 12 hours.
- c) in areas where the work is especially unhealthy or dangerous, the Government may order a reduction of the work schedule.
- d) in jobs authorized for minors under 16 years of age, the work may not exceed 6 hours per day.

In some women's activities, especially in domestic service in both urban and rural areas, the above equality is not respected. Only in recent times have we seen progress in the fight to achieve the enforcement of the regulations set forth in Articles 15 and 161 of the Labor Code.

In addition, our legislation establishes the general rule that there may be no differential treatment in salary for a given position on the grounds of age, sex, nationality or civil status.

The principle of equal work, equal pay is an important triumph which must be constantly guarded if it is to be effective. This is especially so because the rule is commonly violated by employers, especially in the area of domestic labor.

2. Equal Treatment in Tax Laws

During the period prior to Law 28 of 1932, when wives could not freely administer their own property and husbands acted as their legal representatives, equal treatment in tax laws did not exist. Since the husband exercised authority, he was in charge of representing his wife in all spheres of activity, whether civil, commercial, tax, or financial. Naturally, single women and widows with legal capacity were accorded equal treatment in the tax laws, but discrimination against married women was firmly established, as pointed out above.

Article 5 of Law 28 of 1932 declared that married women of legal age could appear in court and that neither marital authorization nor permission of a judge were needed for the wife to administer and dispose freely of her property. Furthermore, the husband was no longer considered her legal representative. With these changes, women acquired equal tax treatment.

3. Equality in Old Age, Illness, and other Social Security Protection

There are many regulations and practices in Colombia which discriminate against women in regard to social security benefits and other compensations for sickness and old age. To cite an example, a man is entitled to a retirement pension for old age when he reaches 55 years of age and has worked 20 years for a company. A woman is entitled to this pension after having completed the same number of years of service and reaching 50 years of age. This inequality should be remedied by passing a law to establish the same retirement age for both sexes.

With respect to maternity and its consequences, Chapter 5 of the Labor Code contains a series of provisions which, while seeming to protect women, actually discriminate against them. The obligatory compensations which women receive make them less attractive as prospective employees. Despite the provision of Article 17, Title III of our Constitution, which states that work is a social obligation enjoying the special protection of the State, the reality is that equality of opportunity (above all, in urban centers) for female labor does not exist. Women are discriminated against because employers fear the possibility of a female employee marrying; or, if married, employers wish to avoid the special compensations which protect maternity.

Not only do private firms attempt to evade that responsibility, but government itself allows this policy in various ways. Government bureaus are at present interested in saving what they can. Thus, whether on the national, departmental, municipal, institutional, or industrial level, they are all concerned with saving the amount allotted in the Labor Code for maternity protection. In fact, in many of these firms an unmarried female employee loses her job by entering into marriage. Although this is not acknowledged in writing, nor is it evident from the labor regulations, nevertheless this is what actually happens.

Therefore, there is a pressing need to reevaluate these regulations which hinder the effective participation of women in the job market and in the development of the country. Whereas efforts should be made to protect maternity and grant compensations, the orientation should be different.

The protection of maternity should be regarded as a social function which is of direct benefit to the family and to society in general (of which women are naturally a part). The possibility should be considered of including both parents in maternity and child-care benefits. This would benefit the children greatly, as well as contribute to parental unity which invariably results in family stability.

The Labor Code now provides for the following compensations with regard to maternity: paid pregnancy leave of 8 weeks (the pay rate is unchanged); paid leave of absence in case of abortion of from 2 to 4 weeks; paid time off for nursing (said time may be taken twice a day for 30 minutes at a time, until the child reaches six months of age). Moreover, no female worker may be dismissed because of pregnancy or nursing. These regulations are established in Articles 236 to 238 of the Labor Code.

With regard to nursery schools, a far-reaching program exists in Colombia, which calls for the development of comprehensive day-care centers for preschool children of workers. This was established by Law 27 of 1974 (See Annex D) and is regulated by Decree 636 of 1975. In this legislation it is provided that all employers contribute 2% of their monthly payroll to the creation and maintenance of day-care centers. Here children receive comprehensive attention, including general care, nourishment and education. These centers are staffed by well-qualified personnel who are dedicated to comprehensive child care. As one can see, this is an optimal system, which would allow women to leave their homes, assured that their children are fully protected.

A very important aspect of this program is the fact that it does not discriminate with regard to which businesses are obligated to contribute to the program. All businesses, whether they are public or private, must collaborate and the benefits are directed not only toward the children of working mothers (as was formerly the case under Articles 245 and 246 of the Labor Code), but to all workers' children. Another important aspect of Law 27 is that it covers the children of unemployed workers who also receive comprehensive care from the State.

These measures, adopted by the government, have contributed greatly to improving the lot of the working woman. Until recently her lot was hard. She was frequently an abandoned wife with numerous children under her care, without the help of day-care centers, nursery schools, and inexpensive public restaurants. She worked for half or one-third of a man's pay, yet was responsible for both her children and all the housework. It is little wonder that Colombian women turned to prostitution as the only escape from their grave economic situation.

Peasant women, who were themselves often ignorant, were forced to send their daughters to the cities in search of work. Work was most often found in domestic service or in waitressing at local bars and cafes. Here the beginnings of prostitution are commonly found.

4. The Education and Training of Women

Life in Colombian homes has changed due in part to the changes which have led women to participate in community activities and join the work force. This is a basic change in the light of which we must develop posi-

tive attitudes, which not only foster the right to self-fulfillment, but also support the organization and stability of the family. The presence of women in the labor force is the result of societal evolution, industrial development, greater economic demands, and the desire of women to become active subjects, instead of the passive objects they have traditionally been.

The only way to guarantee that women will be able to partake fully in national development is by giving them incentives for better education and training. In this way women will be able to find well-paid work outside the home, as well as attending to their domestic tasks. They would have optimal economic opportunities allowing them to find fulfillment as human beings. Both they and their families would reap the advantages of a higher social and economic level. Industrialization has opened the job market to women and has also promoted the participation of both husband and children in the domestic chores. In so doing, the family will achieve true cooperation in the home and join forces to achieve a higher income and participation in the country's productive forces.

Nowadays, women are trained in many different ways, not only in schools, but through their access to jobs in the labor market, which is a form of training. Here they acquire general information and knowledge which they would never obtain by remaining in their homes doing housework. Technological training is indispensable and women therefore must prepare themselves, so that they can come to the job market with skills equal to those of men and receive an equal return for their work.

From the above one can see the advantages of establishing a special women's labor bureau to replace the one which is presently in operation. Among other things, its duties would be as follows:

- 1) To see that laws regarding female labor are carried out.
- 2) To see that female labor is not subject to discrimination.
- 3) To study and resolve problems of working women, and promote their economic, social and cultural advancement.
- 4) To provide women with on-the-job and technical training to improve job opportunities.
- 5) To promote such measures or activities as will lead to the incorporation of female workers into all levels of national life and into the formulation and execution of development plans.

5. The Agrarian Program

At present important rural credit programs for women have been established in Colombia, under which women are extended credit to finance businesses concerned with raising pigs, ducks, cows, rabbits, chickens, sheep, and bees; to cultivate orchards and gardens; and to engage in artisanry and dressmaking. The Colombian Institute of Agrarian Reform, the Agrarian Fund, "Sena", and other related agencies are planning important programs in technical assistance and comprehensive education for women. Loans which are being given individually or collectively to peasant women are geared toward the general improvement of the family, as well as the advancement of women. Finally, according to information recently received from the International Labor Organization ("ILO"), projects such as No. 102 of International

Women's Year are being developed. This particular project encourages the technical training of women as a means of incorporating women effectively into the society of the country.

These recent measures represent victories in the continuing struggle.

IX. OBSERVATIONS AND GENERAL RECOMMENDATIONS

In the Family

1. Familial responsibilities should be shared, so that the couple may become more truly integrated.
2. Although most discrimination in Colombian civil legislation has been eliminated, this process must extend to the remaining legislation and regulations, so that all vestiges of discrimination on the basis of sex are eliminated. For example, the exclusion of retirement pensions from the "sociedad conyugal" should be eliminated in the case of separated spouses if it was earned during their life in common.
3. Equal treatment of men and women in theory and practice must be promoted.
4. The principle of equal rights, obligations and opportunities for men and women should be introduced into the National Constitution.

In Education

1. A large-scale educational campaign should be undertaken to change the attitudes of both men and women as couples. This is essential in the light of recent changes in the status of women with regard to both society and the law.
2. The concept of womanhood must be reevaluated for children and youth. We must try to promote in women the willingness to strengthen and defend the family.
3. A vast educational campaign on all levels must be undertaken, to make women aware of their tremendous worth, as well as make men recognize and appreciate that worth.

In Labor

1. Women must have greater and permanent access to both formal and informal education, regardless of age. Incentives must be given to both women and their families to obtain such training.
2. Opportunities must be provided for women to be trained in technical careers.
3. Housework should be included as part of the recognized national economy.
4. The status of domestic work should be raised, giving it dignity,

rather than the shame it has traditionally been accorded.

5. Domestic work for both men and women should be encouraged as a means of bringing the couple closer together and of uniting their efforts to raise their economic level.
6. Maternity should be given the character of a social function and the meaning of maternity benefits should be changed, so that they concern not only the mother, but the family in general.

In the Penal Field

1. With regard to procuring, the law should be changed to establish an effective system of sanctions which are genuinely enforced.
2. Research should be initiated which aims at enforcing the laws on crimes against human dignity and at determining the number of persons who are jailed for procurement offenses and the trade in persons.

In the Health Field

1. Bearing in mind the need to protect the expectant mother and the child who is nursing, priority should be given to maternal and infant health care programs of the Ministry of Health.
2. Nutrition education programs should be intensified and these should provide for the distribution of the extra nutrients needed by expectant and nursing mothers.
3. Educational programs on family life should be extended, as should information on family planning services, so that the couple may reach a joint decision with regard to family size.

"The status of women does not match the responsibilities and obligations they have, not only towards the family, but toward society in general."

Josefina Amezcua de Almeyda

ANNEX A

COMMENTS ON

"THE STATUTE OF WOMEN IN COLOMBIA"

DECREE 2820 OF DECEMBER 20, 1974

The progress of women, an issue which has concerned governing officials in the past, has only been considered in depth during the government of President Alfonso Lopez Michelsen. The President has declared himself definitely on the side of female interests, and has managed to concretize the ancient aspirations of women by bringing into effect a law which authorizes equal rights and obligations for both men and women. This took place by means of Decree 2820 of 1974, which carefully examines both familial and social aspects of society. In its declaration of purpose, it states:

"Despite recent laws concerning the family a great disparity still exists between the law and the actual situation. There is a clear discrimination against women. Because of the limitations of the law in solving family conflicts and in doing justice to women, a grave social situation is being tolerated.

"In analyzing the spirit of our legislation we find that it incorporates two attitudes which are particularly harmful to the strength and stability of the family. In the first place, this legislation makes it easy for men to neglect their conjugal obligations, and to preserve discrimination. This results in irresponsible procreation, a high number of extramarital unions and the proliferation of children resulting from these. In the second place, the submission and dependency of women has impeded the development of marital relations on a plane of equality, especially with regard to obligations and rights."

It is evident that since time immemorial, legislators have imposed a situation of domination and submission upon family relations. This relationship, which existed between feudal lords and their vassals, has been transferred to the wife and children. This system of marital relations is clearly archaic, since social, economic and political conditions have changed so dramatically. As a result, women are becoming aware that such a system in today's world is degrading. In many cases women rebel. In others, they submit to the situation, either to preserve marital harmony and domestic stability, or as a result of simple ignorance.

The legal situation which existed prior to the adoption of Decree 2820, with regard to marital authority, parental authority and other areas, often constituted an emotional burden for women -- one which subconsciously transformed itself into hatred and rejection, for women were not able to react

legally against their husbands, whom the law had made into oppressors. Such situations existed in numerous Colombian homes. An aggravating situation was the fact that an unstable family relationship, held together only by external forces (rather than genuine feeling between the couple) inevitably caused insecurity, distrust and resentment among the children, feelings which they, in turn, released on the family and society.

1. Marital Obligations and Marital Authority

In reality, men frequently delegate the tasks of educating, raising and being responsible for the development of children to their wives. In this way they have maintained their distance from the home, while they assumed the economic burdens.

There are two alternatives to such a situation: either the custom of making the wife alone, or almost alone, responsible for the family could be recognized and legislation passed to that effect (giving the wife direction of the home), or it could be established that the family and the development and welfare of children are considered as tasks to be shared by the couple. Legislation should therefore institutionalize society's need to have both husband and wife together assume the vital task of establishing and directing the family.

Decree 2820 supports the latter alternative. We did not propose special benefits for one spouse or the other. We proposed that husbands and wives manage the family jointly. This requires that both be on equal footing in the eyes of the law, that the same demands be made of them and the same rights accorded to them.

With this in mind Articles 62 and 176 of the Civil Code were modified, eliminating the concept that the husband owed protection to his wife and the wife owed obedience to the husband.

In the same way, Article 1504 of the Civil Code, which places married women on the list of legally "incapable" persons, was repealed.

Similarly, the idea of marital authority was eliminated, according to which the husband had certain rights over the person of his wife. This had persisted despite Law 26 of 1932 which repealed the authority of the husband over the wife's property.

Article 177 of the Code as now amended provides that both spouses shall direct the home and in cases of disagreement a judge shall settle the dispute. In this way, not only are the problems which arise from joint management resolved, but such an arrangement also guarantees greater stability and equality of marital relations. These must be based on true mutual understanding, respect and concern for what is best for the home. By stating the above, it was not our intention to provoke marital disputes. Rather, we are simply recognizing the fact that often there exist disagreements between spouses, even when the husband is given exclusive direction of the home. A solution for such disagreements, other than imposition of the husband's will, which may be arbitrary or mistaken, must be made available.

In this way, the smooth operation of the home is strengthened with equality and justice. With this in mind, Article 178 was also modified. According to the old text, wives were obligated to comply with their husbands' choice regarding place of residence, even when said choice was harmful to the

family. This was replaced by language which states that spouses are obligated to live together but must decide their place of residence jointly. To the same end, Article 87 of the Civil Code was repealed.

In relation to marital obligations, Article 154 regarding the duty to remain faithful was modified so that the duty is shared by both spouses, having the same implications for both husband and wife.

2. Paternal and Maternal Authority

The fundamental change with regard to paternal and maternal authority was simply the concept of the family as a unit built upon bonds of love, solidarity, mutual effort, agreement and respect.

The set of rights which deal with the representation of children, administration of their property, usufruct of the latter, and guidance of minors, have come to be called rights of parental authority. The old Civil Code stated, in Article 288, that these rights could only be exercised by the father -- a situation reminiscent of the most ancient Roman Law.

A very important change in this legislation took place when in 1887 the mother was granted these rights in cases of the father's absence. This was contingent on her good conduct and failure to remarry. Later, Law 75 of 1938 took another step forward in establishing that a widow does not lose rights of parental authority if she remarries.

Decree 2820 adopted the mutual responsibility of the spouses in familial decisions as the central pillar of equality between men and women in all walks of life.

In changing the concept of the all-embracing paternal power to one of equality, the shared responsibility for children is implied. This type of responsibility provides a more solid basis for family unity, insofar as agreement between parents encourages harmony in the guidance of the children. In addition, such a law recognizes that both father and mother make an effort to raise their children as responsible persons, who are psychologically and morally healthy. With this, a situation of injustice is rectified, for although traditionally mothers carried out the fundamental tasks in the daily life of the home, they received no legal recognition of their right to make decisions with regard to their children.

Consequently, Decree 2820 presents a complete reworking of the Civil Code texts, which regulate this institution (Title XIV, Articles 288 to 317), establishing as a principal regulation: "To the father and the mother belong the right to exercise parental authority over their legitimate children. In the absence of one of the parents, the other shall exercise it."

In addition Article 117 of the Civil Code was repealed, stating that in authorizing the marriage of children, the will of the father shall prevail.

The following articles were also reformed:

a) Article 250 which provided that children owed respect and obedience to their parents, but were especially subject to their fathers.

b) Articles 257 and 261, to establish the obligation of both parents for the expenses of their children; each in proportion to his means.

c) Article 262 which accorded the father alone the right to correct and punish the children, and the absurd right to take them to jail if they were ungovernable. This was changed to give both parents the right to supervise and correct their children in moderation; in so doing, joint parental responsibility is shared and the possibility of cruel punishment is excluded.

d) Article 264, which now provides for mutual participation in the education of the children.

The obligation of the spouses to cooperate in the moral, intellectual and material development of their children was also established. They have this obligation until such time as the children are legally able to act on their own.

3. Other Inequalities

This bill reiterated the equality of men and women in civil rights in order to eliminate secondary inequalities. Articles 169-175 of the Civil Code were written with respect to regulations applicable for remarriage of widows and widowers; Articles 226, 261, 262, 264, 434, 448, 449, 457, 537, 546, 550, 573, 582, 1026, 1504, 2347, and 2368 were also amended so that they conform with laws which were adopted and also with the purpose of Decree 2820.

By way of complementing these changes in the Civil Code, a review was necessary of legislation related to the administration and disposition of the spouses' property, and to the liquidation of the "sociedad conyugal" in an effort to defend familial property.

In one of the key speeches of his campaign, President Lopez remarked to a large female audience:

"We are also going to do away with all forms of discrimination against women. In the first hundred days we are going to enact a new family statute law in Colombia -- one which responds to the needs and demands of our time. A committee of lawyers, of the highest caliber, is drafting such a bill at present. Men and women will be put on an equal footing. Adoption procedures will be revised and the property system in marriage changed, so that the wife's wealth or job are not jeopardized by dissolution of marriage, divorce in a foreign country, or simple abandonment. Presently in the face of any of these situations the wife either loses her marriage or the protection to which she is entitled from the father of her children."

4. Unusual Authority Given the President to Issue Decree 2820

By means of Law 24 of 1974 the National Congress authorized President Alfonso Lopez Michelsen the right to reform by Executive Decree the Civil Code provisions discriminating against women. The President then issued

Decree 2820 of 1974 which authorized equal rights and obligations to Colombian men and women.

Thus the bill, which President Lopez had proposed during his campaign, became a reality within the first 100 days of his administration. It demonstrated the government's willingness to enact legislation which completely does away with all discrimination on the basis of sex. It thus responds to the realities and needs of a society, whose familial organization was greatly affected. The Government has concerned itself with raising the status of women, putting them on equal footing with men, so that they can have the opportunities needed for complete integration into society, so that they may serve the community in accordance with their abilities, and so that they may fulfill themselves as the human beings they are.

New Legislation in Colombia. Decree 2820

OLD LEGISLATION

PRESENT LEGISLATION

RELATIONS BETWEEN THE SPOUSES

MARITAL AUTHORITY

This was the set of rights which the law accorded the husband over his wife's person, placing her in a situation of absolute dependency and inferiority to him (Art. 177, C. C. C.)

Today this set of exclusive rights which the husband exercised over his wife's person is non-existent. The wife therefore is not subject to her husband and both exercise their rights and fulfill their obligations. (Art. 10)

RESIDENCE

Married women were obliged to follow their husband's choice regarding their place of residence. (Art. 87, C. C. C.)

Today women are not obliged to follow their husband's choice. Rather both make the choice, and in the case of disagreement, a judge decides. (Art. 12)

PROTECTION AND OBEDIENCE

The husband was obligated to protect his wife since she lacked the rights to fend for herself. (Art. 176, C. C. C.) This situation obliged her to obey him.

Today, the law decrees that both spouses are obligated to help, assist and be faithful to each other. (Art. 9)

FIDELITY

The Civil Code establishes that adultery on the part of the wife or concubinage on the part of the husband

Presently, extramarital sexual relations of either spouse shall be grounds for divorce. (Art. 4)

are grounds for divorce.

SEPARATION OF PROPERTY

In order for a woman under legal age to request separation of property, she had to obtain authorization from a special "curador." (Art. 197 to 212 C. C. C.)

Today either spouse, if he/she is under legal age, is required to obtain authorization from a special "curador." (Art. 15, Decree 2820/74)

INFORMATION CONCERNING THE STATE OF

PREGNANCY IN CASES OF SEPARATION

During the legal formalities of separation, the husband was authorized by law to subject his wife to a humiliating treatment to determine the stage of her pregnancy. Neither the examination nor birth was attended to by medical personnel.

Today the law authorizes women to inform their husbands or closest relatives of legal age (parents, grandparents, brothers, cousins) of the stage of their pregnancy. In their absence, women may inform the judge. Examinations to verify pregnancy must be conducted by a doctor (Art. 17).

REASONS FOR LOSING INHERITANCE RIGHTS

If a man of legal age committed a homicide against a person from whom he was to receive an inheritance, he was obligated to denounce said homicide. If he failed to do so, he could not receive his inheritance, for he was considered unworthy in the eyes of the law. (Art. 1026, C. C. C.)

Today, without distinction of sex, the obligation to denounce a homicide committed against a person from whom one is to receive an inheritance, is imposed by law. The man or woman who fails to do so is not entitled to receive said inheritance, for he/she is considered unworthy in the eyes of the law. (Art. 57)

RELATIONS BETWEEN PARENTS AND CHILDREN

PARENTAL AUTHORITY

The law accorded the father the rights of parental authority over his legitimate children under legal age. In the absence of the father, these rights could be exercised by the mother. Because they are under legal age children cannot exercise their own rights. The law therefore empowered the father to repre-

Now parental authority rights are exercised jointly by both parents over their legitimate children. Therefore, both parents are empowered to represent them. (Art. 24)

sent his children. (Art. 288 C. C. C., Clause 2, substituted by Art. 13, Law 75/68).

CONSENT TO MARRIAGE

A man over 21 years of age and a woman over 18 years of age could enter freely into marriage. (Art. 116, C. C. C.)

Now both men and women over 18 years of age may enter freely into marriage without authorization of their parents. (Art. 2)

USUFRUCT

Only the father enjoyed the right of usufruct over the property of his children; that is, only he received the profits of such property. (Art. 291, C. C. C.)

Today the law gives both father and mother jointly the right of usufruct over the property of their children under legal age; therefore both receive the profits of said property. (Art. 26)

INVENTORY OF PROPERTY FOR REMARRIAGE

The widower who wished to remarry was obliged to take a formal inventory of property belonging to his children under legal age by virtue of the previous marriage. The widower who did not fulfill this obligation lost his inheritance right to the property he had administered for his children. (Art. 171 C. C. C.)

Today both widows and widowers who wish to remarry must take a formal inventory of property belonging to their underaged children by virtue of the previous marriage. This inventory must be taken before a public notary. Moreover, a person who has administered said property with bad intentions shall lose the right of usufruct and inheritance of such property. (Art. 7)

DUTIES OF CHILDREN TO PARENTS

The law established that legitimate children were especially subject to the father. Nonetheless, they owed respect and obedience to both father and mother (Art. 250, C. C. C.)

Today the law fills this vacancy and establishes that both legitimate and illegitimate children owe their parents respect and obedience (Art. 18)

EXPENSES OF EDUCATING AND RAISING CHILDREN

WHEN PARENTS HAVE "SEPARATE PROPERTY"

Expenses incurred when parents held "separate property" were to be assumed by the father. (Art. 257, C. C. C.)

Today, when parents declare "separation of property", the law, aiming at the protection of the chil-

dren, obliges both mother and father to contribute to said expenses in proportion to their means. (Art. 19)

EXPENSES INCURRED BY A MINOR AWAY FROM HOME

Only the father was obliged by law to pay for the provisions given by others to his underaged child away from home (Art. 261, C. C. C.)

Today the law obliges both parents to pay such expenses in order to prevent neglect of duties toward children (Art. 20)

OBLIGATION TO SUPERVISE CHILDREN

The law authorized the father to supervise the conduct of his underaged children; he was obligated to correct and reprimand them in moderation.

Now the law empowers parents or the guardian to supervise, correct and reprimand their children in moderation. (Art. 21)

CIVIL STATUS AND PROFESSION OF CHILDREN

The father, and in his absence the mother, could choose the civil status and profession of their children. (Art. 264, C. C. C.)

Today both parents must jointly direct the education of their children, but they are forbidden to impose their civil status, profession or position. (Art. 23)

CARE OF A DEMENTED CHILD

The law gave care of the person and property of a demented child, as well as the right to start a trial of interdiction, exclusively to the father. (Art. 546, C. C. C.)

Today the law states that both husband and wife may begin a trial of interdiction. Moreover, when the demented child reaches the age of puberty, they should continue to care for his person and property, until he reaches legal age.

VOLUNTARY EMANCIPATION

The law exclusively authorized the father the right to declare an adult child independent, if the child consented. This independence required public documentation and authorization by a judge. (Art. 313, C. C. C.)

Today, both father and mother declare the independence of an adult child, if the child consents. This independence requires public documentation and authorization by a judge. (Art. 43)

ADMINISTRATION OF CHILDREN'S PROPERTY

The law established that the father, exclusively, was allowed to administer the property of his children. (Art. 307, C. C. C.)

Today, both father and mother jointly administer the property of their children. (Art. 40)

ANNEX B

SEMINAR FOR THE CELEBRATION OF INTERNATIONAL

WOMEN'S YEAR

1. OBJECTIVES

1.1 To report on International Women's Year and Colombian participation in the World Conference in Mexico.

1.2 To receive suggestions and observations with respect to the program and the organization of International Women's Year.

1.3 To report on Family Legislation and allow various problems which confront the family and community in this region to be posed, as well as solutions suggested.

2. PARTICIPANTS

2.1 Type: Representatives from ecclesiastical, civil, and military authorities, civic associations, the "voluntariado," teachers, high school students, peasants, university students, syndicates, journalists and all people interested in the topic.

3. METHODOLOGY

Interaction, group work.

4. ACTIVITIES

Topics

1. General presentation on International Women's Year
2. Information concerning family legislation; Law 27 of 1974, Law V of 1975.
3. Statute of Women. Decree 2820 of 1974
4. Information about the services which the Colombian Institute for Family Welfare offers.

5. GROUP DYNAMICS

What problems confront the community with respect to:

- a) the family
- b) application of the law and services of the Colombian Institute for Family Welfare
- c) work of women

6. CONCLUSIONS AND RECOMMENDATIONS OF EACH GROUP

7. CLOSING - one of the participants in charge.

ANNEX C

Chart showing degree of women's participation
in each branch of Colombian government

EXECUTIVE BRANCH

<u>CABINET</u>	TOTAL	MEN	WOMEN
Ministries (Ministerios)	13	12	1
<u>DECENTRALIZED NATIONAL ORGANIZATIONS</u>			
1. Superintendencies (Superintendencias)	7	7	0
2. Public Institutions (Establecimientos Públicos)	52	48	4
3. Commercial and Industrial Enterprises (Empresas Comerciales e Industriales)	12	11	1
4. Public and Private Corporations (Sociedades de Economía Mixta)	9	8	1
5. Administrative Departments (Departamentos Administrativos)	5	5	0
6. Governorships (Gobernaciones)	22	19	3
7. Assistant Mayors of Bogota (Alcaldías Menores de Bogotá)	17	11	6
<u>NATIONAL AGENCIES FOR FISCAL AND ADMINISTRATIVE CONTROL</u>			
1. National General Prosecutor (Procuraduría General de la Nación)	1	1	0
2. Controller General of the Republic (Contraloría General de la República)	1	1	0

L E G I S L A T I V E B R A N C H

<u>NATIONAL CONGRESS</u>	TOTAL	MEN	WOMEN
1. Senate (Senado de la República)	112	111	1
2. House of Representatives (Cámara de Representantes)	199	187	12
 <u>ADMINISTRATIVE ASSOCIATIONS</u>			
1. Departmental Assemblies (Asambleas Departamentales)	406	355	51
2. Administrative Councils (Concejos Intendenciales)	41	38	3
3. Municipal Councils (Concejos Municipales)	8,441	7,766	675

J U D I C I A L B R A N C H

DISCIPLINARY TRIBUNAL

Justices (Magistrados)	4	4	0
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SUPREME COURT

Justices (Magistrados)	24	24	0
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NATIONAL COUNCIL

. Justices (Magistrados)	20	20	0
. District Attornies (Fiscales)	4	3	1

SUPERIOR JUDICIAL DISTRICT COURTS

Bogotá, Montería, Pamplona, Risaralda,
Popayán, San Gil.

1. Justices (Magistrados)	77	74	3
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	TOTAL	MEN	WOMEN
2. District Attornies (Bogotá) (Fiscales)	6	6	0
<u>SUPERIOR CUSTOMS COURT</u>			
1. Justices (Magistrados)	4	2	2
2. District Attornies (Fiscales)	2	1	1
<u>COURT OF ADMINISTRATIVE DISPUTES OF CUNDINAMARCA</u>			
1. Justices (Magistrados)	8	6	2
2. Attornies (Fiscales)	4	3	1
<u>SUPERIOR COURTS (Bogotá, Montería, Risaralda, Popayán, San Gil)</u>			
1. Superior Judges (Jueces Superiores)	32	28	4
2. District Attorneys (Bogota) (Fiscales)	20	19	1
<u>CUSTOMS COURTS</u>			
1. Superior Customs Judges (Jueces Superiores de Aduanas)	2	2	0
2. District Attorneys (Fiscales)	2	2	0
<u>DISTRICT COURT OF CUSTOMS OFFENSES</u>			
Judges (Jueces)	2	1	1
<u>MAGISTRATE COURT OF CUSTOMS OFFENSES</u>			
Judges (Jueces)	2	1	1

<u>MAGISTRATE CRIMINAL COURT</u>	TOTAL	MEN	WOMEN
(Bogotá, Montería, Risaralda, Pereira, Popayán, San Gil)			
Judges (Jueces)	136	120	16
<u>CIRCUIT COURTS</u> (Civil, laboral, penal "promiscuos" of Bogotá, Montería, Risaralda, Pereira, Popayán, San Gil)			
Judges (Jueces)	134	114	20
<u>JUVENILE COURTS</u> (Bogotá, Montería, Risaralda, Popayán, San Gil)			
Judges (Jueces)	24	14	10
<u>TERRITORIAL CIRCUIT COURT</u> (Juzgado Promiscuo Territorial)			
Judge (Juez)	1	1	0
<u>MUNICIPAL COURTS</u> (Civil, penal and circuit of Bogotá, Montería, Risaralda, Popayán, San Gil)			
Judges (Jueces)	254	188	66

ANNEX D

EXCERPTS FROM LAW 27 OF 1974 (ESTABLISHING
PRE-SCHOOL COMPREHENSIVE CARE CENTERS) AND THE LAW'S SIGNIFICANCE

The Congress of Colombia decreed in December 1974 as follows:

Art. 1. There are hereby created pre-school comprehensive care centers for the children, under seven years of age, of all public employees and of official and private workers.

Art. 2. As of the date of coming into force of the Law, all employers and public and private organizations shall set aside a sum equal to 2% of their monthly payroll so that the Colombian Institute for Family Welfare may undertake the creation and maintenance of pre-school comprehensive care centers for children under seven years of age of public employees and of official and private workers.

The centers set up under this Law shall be part of a national system of family welfare, and shall have the character of public utility institutions. Included among the institutions which act as nursery schools, day nurseries, and kindergartens, as well as community child care centers and similar agencies.

. . . .

Art. 7. The Colombian Institute for Family Welfare shall extend these programs and services to include the children under seven years of age of independent workers and of unemployed parents.

. . . .

Art. 9. The contributions made by the employers and public and private enterprises shall be deductible for income tax and related purposes on the basis of a certification of payment sent by the Colombian Institute for Family Welfare. Donations by natural or legal persons to the said Institute for the carrying out of its programs and services for child and family shall receive similar treatment.

Art. 10. The National Government, in issuing regulations under this Law shall determine the progressive coverage pre-school care centers, following a specific system of

priorities, and shall determine the financial charges for the use of the services on the basis of charges which shall be differentiated on the basis of salary levels or of situations of unemployment.

This law comes into effect on December 20, 1974

With the enactment of this law, comprehensive care centers were created for children under 7 years of age. In effect this means that women can leave the home to work, assured that their children are being well-cared for. In passing Law 27, the National Government has reiterated its interest and willingness to help women. Its concern is with the integration of women into all activities of modern life. It has simultaneously, however, placed great emphasis on the need to protect and care for the infants of Colombia.

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- 23/ *Law and Population Growth in Mexico*, by Gerardo Cornejo, Alan Keller, Susana Lerner, Leandro Azuara (1975).
- 24/ *The Impact of Law on Family Planning in Australia*, by H.A. Finlay (1975).
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- 29/ *Law and Population in Lebanon*, by George M. Dib (1975).
- 30/ *Annual Review of Population Law, 1974*, International Advisory Committee on Population and Law (1975).
- 31/ *Law and Population Growth in Chile*, by José Sulbrandt and Maria Alicia Ferrera (1975).
- 32/ *Law and the Status of Colombian Women*, by Josefina Amezcuita de Almeyda (1975).
- 33/ *Law and Population Growth in Ghana*, by Richard B. Turkson (1975).
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