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LAW AND THE STATUS OF WOMEN

Women lawyers from around the world give a succinct account of the legal and economic status of women in fifteen countries in Law and the Status of Women, a book put out recently by the U.N. Center for Social Development and Humanitarian Affairs and edited by the Columbia University Human Rights Law Review. Rather than treating the legal code as though it existed in a vacuum, the authors tell us about social customs, traditions, education and economic situations which may be more influential in regulating women's behavior and options than the law itself.

Chapters covering one country each deal with women and the law in Egypt, France, Ghana, India, Indonesia, Iran, Jamaica, Kenya, Peru, the Philippines, Sweden, Togo, the United States, Yugoslavia and Brazil. What developers can learn from the work, originally published as part of the Columbia Human Rights Law Review, is suggested by these examples:

Egypt: Muslim law is not inflexible dogma. As a result, Egyptian social laws affecting the status of women in social, economic and political spheres are readily subject to change in relation to social needs. Egyptian labor laws deal equally with men and women, while at the same time provision is made for maternity protection of the working mother. Employment for women used to be detrimental to their social prestige. Now employment gives a woman status and makes her a more desirable marriage partner. Employed women more frequently set the conditions of their marriage contracts, demanding inclusion, for example, of the equal right to divorce. The trend among Egyptian legislators is to expand the grounds upon which a woman is entitled to ask for a legal divorce and to include among these grounds the marriage of her husband to an additional wife.

Ghana: In this country the family is closely connected with modes of political organization, with economic arrangements and with religious belief. Within matrilineal (and patrilineal) groups, property holding, inheritance and family decision-making is

organized around those with common blood relationship rather than between husband and wife....The right of wives to work outside the household is steadily becoming more important. In many Ghanaian households women frequently engage in their own economic pursuits and occupations, retain control over their own economic assets and make decisions in many matters independently of their husbands.... One of the greatest difficulties facing any person interested in the reform of Ghanaian laws affecting women is the lack of empirical data upon which recommendations can be based.

Indonesia: The Constitution of 1945 guarantees equal rights to citizens in all fields regardless of sex, ethnic background, or religion. The struggle for national independence gave women a chance to play a greater role within Indonesian society. The movement for national independence also hastened the demise of the system of kinship groups and their strictures on the role of women. While the Indonesian woman's status is still very much dependent on the husband's status, greater recognition is being given women who have made careers of their own, irrespective of their husband's status.

In bilateral or parental communities, the husband and wife each belong to their own kinship group, and the children belong to the kinship group of both parents. The woman's position in such a system is usually equal to the man's, and it is this system that is the most common in Indonesia....In general, the principle of equal rights for women has been incorporated in public law, but some forms of discrimination still persist in the implementation of the law.

Jamaica: Jamaica is like many developing countries in transition. Newer laws attempt to put together the ideal and the reality for women. However, the picture is still muddled with traditional laws and practices which were structured for the protection and security of the legal nuclear family, based on the British idea of male support and female obedience. Women head 40 percent of the households and count for about 60 percent of the unemployed. Laws which are supposed to "protect women" in employment are apt to do the reverse. That is, women may not work at night, have limited hours on certain jobs, and are unable to acquire medical benefits for their families. Jamaica is trying to incorporate in the society the majority of children who are born and grow up in families where the parents are not married.

Kenya: Women are legally less privileged than are men and this explains much of their subservient position in society. Kenya's Constitution provides little protection against gender discrimi-

nation. In areas where discriminatory legal provisions do not exist, social practices discriminate and are not discouraged by the law. Only sons can inherit under customary law. Wives and daughters, with the exception of married daughters, have only a maintenance right. Under Islamic law, a widow receives only one-eighth of her husband's property if she has children, and one-quarter if she has no children. The word "property" refers to either agricultural land or livestock. Daughters receive only one-half of the amount a son obtains through inheritance....A major constraint to female education is the exclusion of girls from government technical and vocational secondary schools. These are institutions which successfully produce students for immediate absorption into the labor market.

Peru: Until the present military government assumed power, single women were in most instances equal to men before the law while married women suffered many disabilities, particularly in relation to their rights to control their own property and money, unless a prenuptial contract for a separation of goods had been executed. Indeed, a woman could not work in paid employment without her husband's permission, although such permission was presumed unless he objected and wanted to take the matter to court....Elaborate codes protect women workers in factories, in areas such as maternity leave, hours off for nursing the new born, and obligatory day care for infants. However, the authors fail to report that these provisions have been effective in keeping women from being hired because the heavy added expenses of carrying out the requirements are borne in their entirety by the employer....There is an elitist bias in the chapter, which says nothing about legislation on behalf of the domestic servant although 26 percent of women in the labor force work as domestics and only 8 percent are professionals. In 1972 the military government issued a series of laws covering the status and working conditions of domestic servants. Their enforcement, of course, is another matter.

Philippines: The women of the Pre-Spanish Philippines enjoyed a high standing in society. They could become chief of the barangay (village), perform the role of priestess, engage in business, hold property and name their children. Western laws and civilization, however, diminished this standing. Under the Civil Code introduced by Spain, married women were classified with incompetents like the insane, civilly interdicted, deaf mutes, and minors. Even the existing Civil Code contains a number of provisions clearly discriminatory to women such as the husband's right to choose the family residence, to object to the wife's profession if he can support her sufficiently, and to administer conjugal property.

Brazil: The Brazilian women, often unaware of her legal problems and too frequently without professional abilities, judges herself free, without perceiving that until now she has never been given the opportunity to participate in the process of solving problems which relate to her condition under the law. Conservative Brazilian legislators are indifferent to the elimination of traditional sexual biases and notions of marital rights still reflected in the Civil Code, which place the husband at the head of the marital union. For developers the author's conclusion is prologue: "Economic independence is the most important instrument a woman possesses in promoting recognition of her political, economic and social rights."

Copies of this document have been distributed to A.I.D. Missions and Washington officials by the Office of Population and the Women in Development Office. Additional copies, while the supply lasts, can be obtained from either office. The material was originally published as pages 1-371 of the Columbia Human Rights Law Review, Vol. 8, No. 1 and is copyrighted by the Columbia Human Rights Law Review, Columbia University School of Law, New York.