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The Role and Position of Women In Law and Practice: Report from the International Association of Democratic Lawyers

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THE ROLE AND STATUS OF WOMEN JURISTS: COUNTRY-BY-COUNTRY SUMMARY

Belgium: Women jurists are a tiny percentage of the total; legal education is not encouraged for female children by most families. There is discrimination against hiring women in all sectors of society, and most women choose family over career. There is a great deal of discrimination against women in the legal profession from male colleagues.

Bulgaria: One-third of all jurists — judges, prosecutors, and legal advisors—are women. Now the percentage of women in law schools is greater than of men. Many women lawyers work in foreign trade organizations and in industrial enterprises, although women are still less than one-third of those in general practice. About fifty-five percent of university students are women. Child care and industrialization of household work is a national priority to give women more free time comparable with men.

* We are pleased to be able to publish two short excerpts from the first conference of the International Association of Democratic Lawyers (IADL) on the role and status of women. The conference was attended by 47 delegates and observers from 20 countries representing every major economic/governmental system. Papers and remarks were presented in English and French on three topics: Women and Work, Women and the Family, and Women in Political Life. A selection of conference papers and speeches are published in a special issue of The Guild Practitioner, a quarterly publication of the National Lawyers Guild (available for $2.00 from P.O. Box 673, Berkeley, CA. 94701). Additional conference material, including papers and tapes of oral reports, is available from Meiklejohn Civil Liberties Institute (P.O. Box 673, Berkeley, CA. 94701). The Women’s Law Forum would like to express its sincere thanks to Ann Fagan Ginger and the Meiklejohn Institute for permission to reprint the following excerpts.

** Glen Spain compiled this summary from tapes of conference oral reports in English and French. Unfortunately no tapes were made on Algeria, Austria, Senegal, or Switzerland.
Egypt: There are no women judges and few women attorneys as yet, although these few are quite active in attempting to change this situation. Only one woman is a government minister; she and the previous woman at that level of government are both lawyers.

France: While there are no longer any legal obstacles to women working in the legal profession, there are still many objective burdens (family responsibilities and more subtle prejudices). Thirty-six percent of the women of working age are now working, and this figure is relatively stable. Nevertheless there is a thirty to forty percent discrepancy between male and female salaries because the women are concentrated in the lower-paying jobs. There are anti-sexism laws but they are not enforced in many situations. Women lawyers are playing an increasing role, and the president of the tribunal of Paris is a woman, as are judges in other places.

Guadeloupe: This country is not a socialist, not a capitalist, and not a developing country, but one of the oldest French colonies. Today ten percent of the fifty lawyers are women; for seventeen years there was only one woman lawyer on the whole island. There are no women judges, although one recently went to France. Very few women who complete law studies can obtain decent jobs.

German Democratic Republic: Almost half the jurists are women, of whom forty percent work as counsel in factories, a very common position for GDR lawyers. Educational opportunities for women in law are the same as for men, and women are well-represented in university faculties.

Great Britain: Women still have a difficult time in entering legal education, although the percentage has recently increased to about twenty-five percent. The percentage of barristers and solicitors is ten percent and may be falling, although the actual number continues to increase very slowly. There is a great deal of discrimination from male jurists, and women find themselves in traditionally women’s areas of practice (family and criminal law). There are very few women judges. A great deal of pressure and conflict continue between women’s roles as mothers and as professionals.

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Guinea: Women obtained equal legal rights and equal education with the recent national independence. Young women now have access to higher education for the first time, but at present there are no women lawyers since these changes occurred such a short time ago.

Hungary: Almost sixty percent of law students today are women; some areas of practice are now dominated by women attorneys (family law). About thirty percent of the judges are women. However, since the hours expected of lawyers are very long, many women—especially women with families—avoid this field.

Ireland: Less than five percent in all the professions (including law) are women. Women jurists are relegated to traditional areas (property and inheritance law), and only two women solicitors and no women barristers specialize in criminal law. There are three women magistrates in Ireland, and no women judges. Educational opportunities (and scholarships) in law for women are limited. The first woman barrister was appointed senior counsel last year. There are few courses in family law; in the separate colleges for barristers there are none. In parliament, there are only four women. There is still a great deal of discrimination and prejudice toward women in the courtrooms.

Japan: Today there are approximately 20,000 lawyers, of whom about 300 are women. These women are active in promoting women's rights. There is still much discrimination against women in every industry in Japan, as well as in the legal profession, and women lawyers face many conflicts between their careers and work in the home or child-rearing.

Poland: Women are forty-six percent of those in national administration and fifty-eight percent of those in justice. Discrimination based on sex has mostly disappeared in industry over the last thirty-five years. Protection of pregnant workers and working mothers with minor children still needs to be improved, as well as reform of pension laws. Reform is underway in the areas of family law and housing.

Soviet Union: Among students in law schools, fifty-seven percent are women; forty percent of legal professors are women; fourteen percent of doctors of law and twenty-seven percent of
candidates of law are women (this is a lesser academic degree than doctor of law). Thirty-five percent of practicing lawyers are women; in larger cities women are about fifty percent. Women judges comprise thirty-four percent nationally; in less-developed republics like Latvia women comprise 53.2% of judges and 55.4% of lay judges, while in Uzbekistan women judges comprise 13.6% and lay judges 42.7%. In some areas separate examinations for women still exist as well as discrimination against married women, but efforts are being made to eliminate this discrimination. Women are active in politics in increasing numbers. Twenty-five percent of the members of the Communist Party are women; there are twenty-eight women ministers of state, and the percentage of women in the Supreme Soviet has grown from 16.5% in 1937 to 32.5% in 1979.

Sudan: There are few women lawyers, some judges, some legal counsel and some law teachers, but most women lawyers must leave their profession after marriage or children because there are no nurseries or childcare and it is very difficult to combine a career with family life. Women lawyers are not allowed to become judges in Islamic courts, and cannot even appear either as lawyers or as parties. There is great prejudice against women in the legal profession, and they are denied public offices. There is also a very active suppression of the women’s movement by the military regime in Sudan, where the number of illiterate women is still over eighty-five percent.

Sweden: Female jurists in Sweden are about thirty percent of the total number of jurists. Still there are problems to be solved as to the equality between women and men.

United States: Today women lawyers and judges are about 9.5% and are not increasing much percentage-wise due to the rapid increase in lawyers and judges (now 462,000). Most law schools admit about thirty percent women students. The relative low pay for women professionals is sixty-four percent of men's and going down; this is true in law, where women are more often employed but less highly paid than men. There is little childcare available and no system for care of elderly parents. There are virtually no progressive women law professors, judges, legislators or administrators with tenure and policy-making power. Few women lawyers have yet emerged as national leaders or judges.
RESOLUTIONS AND REPORTS ON THE ROLE AND POSITION OF WOMEN IN LAW AND IN PRACTICE

At the Conference sponsored by the International Association of Democratic Lawyers, in Cambridge, England, Sept. 13-17, 1979, the following Resolutions and Reports were adopted and accepted.

I. GENERAL RESOLUTION

Recognizing the contributions of women to all of the spheres of professional, social, economic, political, family and cultural life;

Taking into account the fact that colonialism, neocolonialism, racism, apartheid, genocide, fascism, and foreign occupation all place particular burdens on women, especially mothers, and that the elimination of these evils is impossible without the active, full and equal participation of women;

And recognizing the vital role women have in the promotion of liberation and peace, in all spheres of life: in the family, the local community, the nation and the world;

The Conference adopts the following resolution:

That the International Association of Democratic Lawyers establish a permanent Commission on the Rights of Women, to fulfill the following functions:

1. To prepare sessions and seminars at major IADL conferences concerning the rights of women, with particular attention to the problems and rights of women in their work, because this area of concern (including industrial, agricultural, and domestic work) deserves greater attention and because it necessarily includes discussion of problems of the role of women in professional and domestic life.

2. To participate in all IADL activities concerning a series of problems, some of which are international crimes, including racial discrimination, double exploitation of women workers, genocide, apartheid, acts of aggression, destruction of the family, forced sterilization, and excision, because they always have as their first victims women (especially women of colour) and
children.

3. To investigate the problems of all women in the legal field—lawyers, law students, magistrates, assessors, paralegals, etc.—and to encourage participation of all lawyers and legal workers, men and women, in the solution of these problems.

4. To promote the exchange of information and experience on professional, social, and personal problems among women in the legal profession from many countries, in order to enhance their development and to help solve common problems.

5. To participate in all of the activities and conferences relating to the UN program for the Decade of Women, announced by the UN in 1975, which includes many juridical problems.

6. To use all available means to give effective publicity to the efforts of women, and especially of women in the law, to attain racial and sexual equality, respect and understanding, at professional, political, and domestic levels.

7. To provide a forum in which women in the legal field can exchange ideas about the creative approaches women have used in specific situations at law to achieve social progress, and discuss how these approaches can become general tactics and can modify and enhance existing methods of work developed over centuries by male lawyers.

8. Each nation represented at this conference may appoint a delegate to the Commission set up by the IADL. The Commission will also call for the participation of the sections and individuals (in countries that do not have associations) unable to be represented at or to attend this conference. The Commission, in liaison with the IADL, will undertake the preparation of the work concerning women’s rights at the 1980 IADL Congress by all means available (preliminary meetings, correspondence, etc.).

9. This Conference calls upon the editors of IADL publications and of publications of member associations to publish as much material from this Conference as possible.
II. RESOLUTIONS ON WOMEN AND WORK

A. International Problems Re Toxic Chemicals

Whereas occupational exposure to toxic chemicals is harmful to the health of industrial and agricultural workers and can be particularly harmful to the capacity of men and women workers to produce healthy children; and

Whereas industries that use toxic chemicals are being introduced into countries which are obliged to accept them because of economic necessity and which lack sufficient information to protect the interests of their working population; and

Whereas threats to the reproductive health of the workers of every nation is a matter of international concern;

Be it resolved that:

This Conference recommends that the IADL propose to the International Labour Organisation, the World Health Organisation, other appropriate international agencies, and the trade unions and associations:

1. That investigations be conducted into the introduction of industries involving occupational exposure to toxic substances into developing and other countries;

2. That a mechanism be created to:

   a. monitor and report regularly on multinational companies and developed countries that introduce dangerous industries into developing and other countries,

   b. provide technical assistance to developing and other countries so that they may determine the health dangers of industries that are proposed to be introduced into these countries and so that they may demand and develop protective measures for their workers, and

   c. provide legal assistance to developing and other countries so that they may develop domestic laws to protect the health of their workers and take advantage of international laws and organisations.
B. Women and Agriculture

The role of women in agriculture, to be fully analyzed, must take into account:

- the degree of socialism in the political economy;
- the degree to which the agrarian sector is in the market economy;
- the degree to which agricultural work has been mechanized.

However, there are certain principles which apply to all countries though their impact on the various legal systems will vary substantially according to the political economy:

1. Work of women in agriculture should be considered for all purposes to be work of equal importance and dignity with work in other sectors and everything should be done to alleviate the burdens through modern means. This is true even if this work takes place in a family setting and is unpaid.

2. Where social programs exist, such as pensions, maternity benefits, and disability benefits, they should always be extended to the agricultural sector, regardless of whether the work is in the market economy.

3. Under no circumstances should women be excluded from legal protections extended to men.

Where the husband and wife are both responsible for the agricultural work on a farm, it is impermissible for the husband to have all the benefit of the work and to make the wife shoulder the main burden of the agricultural work.

III. RESOLUTIONS ON WOMEN AND THE FAMILY

A. Women and Apartheid

This Conference condemns the additional burdens placed upon African women by the apartheid regime, which in its quest for cheap exploitable labour has established economic structures and legal mechanisms for destroying the African family.

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B. Irish Family Planning Act

This Conference condemns the new Family Planning Act in the Republic of Ireland in that:

1. It restricts the availability of contraceptives to married couples only, thereby infringing on the personal right to privacy of an unmarried woman and her freedom to choose the manner in which she lives her personal life.

2. It will lead to the closing of the voluntary Family Planning Clinics which have hitherto provided a service to women irrespective of status.

3. It fails to provide for free prescriptions which places an added burden on working-class women.

C. Report of the Commission on Women and the Family

The Commission has listened to oral presentations, taken into account written reports, and discussed in depth the points mentioned below.

Because of the great number of questions which arose, it is not possible to cover all the subjects discussed.

Moreover, the unequal economic development of the countries concerned, the differences between the various regimes and the diverging political choices of the various states, the disparities in the institution of the family itself (nuclear or extended family), multiply the problems and call for appropriately diverse responses.

A certain number of facts can, however, be emphasized:

1. Woman in the family is, at the start, deprived of rights as much in the devolution of parental authority as in the administration of property.

   Improvement of her condition is linked to the development of the progressive movement as a whole and to the struggles that are waged as an integral part of this movement.

2. Women’s participation in economic life and in national
struggles is a determining factor in their achieving equality in the family as well as in the areas of work or civil rights.

3. The destruction of the family by the neocolonialist powers (separation of couples and their children) is carried out as systematic policy of enslavement and racist oppression (e.g., in South Africa). Practices such as enforced sterilization are also employed, especially against women from racial minority groups (e.g., Puerto Ricans) as a means of capitalist oppression.

4. Women's right to voluntary maternity by means of contraceptives and voluntary interruptions of pregnancy (abortion) remains contested in the name of demographic requirements—even though this argument is rendered specious by the high risk of dangerous and illegal abortions—and is also held back by the influence of religious feelings. In this field, rights won through hard struggle are constantly threatened by reactionary forces (e.g., in France).

5. Custom and religious tradition, contested even by believers themselves, maintain in certain countries the practice of mutilation (excision and infibulation), resulting in irreversible harm to the body and to the psyche.

6. The right to choose one's partner and the right to separate from one's husband without being subject to unilateral repudiation by him are not yet acknowledged in all countries.

The Commission has also discussed various other subjects, such as violence done to women, sexual attacks, and the place of homosexuality in different types of societies.

The Commission emphasizes the fact that even those rights granted by adequate legislation remain a dead letter:

1. If the economic conditions necessary to put them into practice are not assured (state aid to families, development of social services, etc.);

2. If the education of children and adults is not freed of all discrimination;

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3. If the action directed toward attitudes and the radical eradication of all sexist prejudice is not undertaken and followed through with perseverance.

IV. REPORTS ON WOMEN IN POLITICAL LIFE

A. The political equality of men and women is guaranteed in almost all legal systems, but in reality it is not enforced for political, economic, and socio-cultural reasons.

Respect for women's political rights is an integral part of the recognition and respect for human rights and for basic liberties.

The exercise of these rights for women naturally remains theoretical, since it requires intervention in social and economic life which must be determined at a level of decision-making in which they are unable to participate.

As a result, women generally delegate this power and they remain far away from the center of decision-making.

The socio-economic constraints on women (double workload: in the fields, the factories, the offices, as well as at home), and their lack of political education lead women to become disinterested in public matters.

This phenomenon is often re-enforced by psychological conditioning linked to socio-religious traditions which determine the role of women according to the needs of the family.

In order to change this situation it is necessary, as a first stage, to make human rights in general, and the rights of women in particular, better known, while emphasizing the unsatisfactory application of women's rights in reality. This task should be undertaken by all international and regional organisations, and governments, as well as the mass media.

Concrete studies on all of these problems could be fueled by programs of nongovernmental, governmental, regional and international organizations.
B. 1. The wishes of humankind for a just society can never be achieved until all members of society, women and men, have an equality of status and rights in law and reality.

2. The UN Charter, the Universal Declaration of Human Rights, the International Conventions on human rights and other relevant conventions as well as the World Action Programme of the First World Conference of Women’s Rights of the UN in 1975 confirm in international law rights to which all women are entitled. The need to improve and strengthen the law remains. However, some members of the international community have failed to ratify or to implement within their domestic jurisdiction these provisions of international law. There still exist differences between countries in recognizing the status and equal rights of women in law and in practice. In countries where there is a denial of human rights and self-determination to the majority of the people there can be no remedy in the legal process. However, unless the struggle for national liberation incorporates in its programme and practice the full realisation of women’s rights, its objectives cannot be achieved.

3. In every society women’s rights can only be fully realised to the extent that women take part in political life and decision-making at all levels. The lack of participation of women in political life may be reinforced by nonsexist attitudes propagated by the media and implicit in the educational system.

4. There exists a specific responsibility of lawyers to contribute to the realisation of equal rights for women in political life. We ask the IADL and all its member associations to support the women’s organisations in preparing the Second UN World Conference on Women’s Rights in 1980 and make their contribution to its work.