

Forum: UNWOMEN

Issue: Establishing guidelines to the recognition of marriage and relationship in western jurisdictions

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Introduction to the Committee

Created in July 2010 as part of the overall UN reform initiated in 2005, UN Women is the United Nations entity dedicated to gender equality and the empowerment of women. This entity results from the merger of four distinct organizations into a single institution responsible for deploying the necessary means to promote parity and the empowerment of women throughout the world. These former organizations are:

- Division for the Advancement of Women (DAW)
- International Research and Training Institute for the Advancement of Women (INSTRAW)
- Office of the Special Adviser on Gender Issues (OSAGI)
- United Nations Development Fund for Women (UNIFEM)

Historical context

The United Nations has for many years faced significant challenges in its efforts to promote gender equality around the globe. The lack of a recognized single agency to guide UN activities on gender issues was a real obstacle. In July 2010, the United Nations General Assembly established UN Women to address these challenges. The creation of such an institution and the various works carried out since have represented real progress for the Member States in terms of the challenges of gender equality and the empowerment of women.

UN Women supports UN Member States in adopting international standards to achieve gender equality and works with governments and civil society to design the laws, policies, programs and services needed to ensure the effective application of these standards and that women and girls everywhere benefit from them.

Main missions of UN Women

- To support intergovernmental bodies, such as the Commission on the Status of Women in the formulation of international policies, standards and benchmarks.
- To help Member States apply these standards, by providing countries that request it with appropriate technical and financial support, and forge effective partnerships with civil society.

- To lead and coordinate the work of the UN system on gender equality and promote accountability, including through regular monitoring of progress across the system.

Governance

It was the UN General Assembly resolution 64/289 that founded UN Women in 2010. According to this resolution, the intergovernmental governance of UN Women is organized as follows :

- On one hand we have the General Assembly, the Economic and Social Council (ECOSOC) and the Commission on the Status of Women, which together set standards and guide UN Women in its work.
- On the other hand, it is the General Assembly, the Economic and Social Council (ECOSOC) and the Executive Board of UN Women that carry out operational activities.

The person in charge of the leadership of UN Women works under the direct authority of the UN Secretary-General, with the title of Under-Secretary-General. Since September 30, 2021, the Executive Director of UN Women is Sima Sami Bahous, a Jordanian diplomat, who has previously worked with UNICEF, WHO and UNDP.

Introduction to the Topic

Marriage, as a legal and social institution, has long been considered a determining factor in the oppression of women. However, this institution has undergone significant changes in Western jurisdictions, particularly over the past two decades, which have been marked by divorce reform, the emergence of prenuptial agreements and the legal recognition of same-sex relationships.

Most legal systems attach great importance to marriage by affirming in particular its founding character of the social order. Marriage is apprehended by the positive law of States as much by religious and moral norms as by customs and moral rules. In its implementation, it intervenes to regulate and control the many human relations arising from the physical fact of the existence of two genders: male and female. As an institution, it functions in two areas: the regulation of personal sexual relations and the

regulation of descent, inheritance, succession and social order. Thus, the family, which is born of marriage, acts as a “stabilizer” of the institution of the latter. It is often just a matter of self-interest and only very slowly becomes mutual, romantic, parental, poetic, affectionate, ethical and even idealistic. The State then seeks to influence family choices by favoring a family model with a stable family. In the family code, it defines the profile of the family, which it wants to encourage, and is normative towards it.

Then the progressive diversification of the forms of constitution of the couples pushes back the family institution to see emerge a process of individuation of the private life accompanied by the female emancipation and its access to the control of the fertility. The State no longer sets itself up as a norm, but intervenes as an arbiter that accompanies changes in society. Legislation is marked by its gradual erasure of the private sphere. The legal regime of the family is thus profoundly modified, civil law being imbued with the transformation of mores and society. This results in an improvement in the legal capacity of each member of the family to exercise their choices or their autonomy. These are also realized in the love sphere. One of the most obvious expressions of this transformation of norms and rules of privacy in France over the past 40 years has been the changing framework for legitimate sexual practice. It is no longer the institution of marriage that defines the legitimate space of sexuality, but the reference to individual free will in the form of consent to the act.

In this new configuration of freedoms, forced marriage has no place, and when its specter arises, the voices are unanimous in denouncing it. If the responses of the law reflect a more or less serious consideration of the problem, there nevertheless persist contradictions inherent in the very functioning of regulatory and democratic systems.

Forced marriage, in France and in European countries, raises legal and social issues both for the victims who seek the protection of the domestic law of each country and for legal practitioners. These questions relate to the application of domestic law in relation to practices deemed obsolete and their confrontation with private international law in the light of the advances made by human rights conventions. Because their settlement depends on the position of the European States - notwithstanding their concern for alignment with the principles which they consider the common reference of

human values, if not universal - and on taking into account their different evolution on questions relating to certain their values (the institution of the family, the place of women). Finally, if the prevention of forced marriages has been accompanied by significant modifications in these different laws, their application gives rise to a reflection on the judicial practice in a field where the law of foreigners, foreign laws and Western laws are called upon.

Term Definitions

Forced marriage

Forced marriage refers to any union, whether civil, religious or customary, in which one of the two people, and sometimes both, have suffered threats and/or violence to force them into it. They concern minors and adults. The constraint to marry can be implemented by different means, often cumulative and repetitive.

It can be physical, sexual, psychological, verbal violence; control and prohibition of many aspects of the victim's life; trickery to coerce her into going abroad; the use of false family, emotional, cultural and/or religious justifications.

Gender norms

Gender norms are a subset of social norms that relate specifically to gender differences. They are informal, deeply held and widely held beliefs about power relations, norms, expectations or gender roles that govern human practices and behaviors in a particular social context and at a particular time. They are ideas or "rules" about how girls and boys or women and men should be and act.

Gender norms permeate all of life from before birth. Reflected in particular by behavior and the configuration of interpersonal relationships, they are transmitted from childhood, above all by parents/family, school and peer groups (children of the same age). In this context, children today still learn behaviors typically associated with a gender role.

Those who do not engage in the desired behavior are frequently corrected or even sanctioned "for their own good" and that good must often be understood to be defined by others. The reason frequently given, especially by parents, for the transmission of traditional gender norms is the fear that a child who does not conform to these norms will be socially excluded or suffer discrimination.

Patriarchy

Patriarchy is a social system in which the man, as a father, is the guardian of authority within the family or, more broadly, within the clan. The perpetuation of this authority is based on descent by males, the transmission of the surname and sexual

discrimination. Women are subordinate to the man who has authority: the father, the husband or, failing that, the brother.

Women's rights

Women's rights are rights claimed for women in many societies around the world, which form the basis of the women's rights movement of the 19th century as well as the struggle of feminist movements since the 20th century. In some countries these rights are institutionalized or supported by law, local custom and behavior, while in other countries they may be ignored, suppressed or suppressed. They differ from broader notions of human rights by stating that there are inherent historical inequalities against the enjoyment of rights by women and girls, in favor of men and boys. The defense of these rights is an objective in order to achieve a more egalitarian society.

Feminism

Feminism is a political, philosophical and social doctrine or attitude, based on the equality of the sexes. Feminism aims to:

- defend the interests of women in society,
- improve and extend of their rights,
- achieve the end of the oppression and discrimination of which women are victims on a daily basis,
- allow women to be emancipated from their male tutors.

Feminist thought seeks, in particular, the improvement of the status of women in societies with a tradition built on gender inequality.

Timeline of Events

In the Middle Ages

Christianity takes hold of the institution of marriage and makes it one of the great sacraments on the same level as baptism or the Eucharist. Contrary to Antiquity where the marriage contract was a private affair, the publication of the banns here became compulsory, in particular to fight against clandestine marriages. Marriage underwent several changes during this period and it was not until 1542, on the occasion of the Council of Trent, that it was established that the union must be celebrated by a priest and in the presence of witnesses.

If during Antiquity it was possible to break this commitment, marriage here becomes indissoluble. Religious marriage is the only one that exists, the priests keeping the civil status registers themselves.

In Modern Times

If we already speak in the Middle Ages of consensual marriage, it will be necessary to wait for the 18th century to see a real idea of free consent and love marriage appear. That said, we are still a long way from bouquets of roses and other texts of love, the idea of free consent knowing fierce opponents. We can, however, speak of the beginnings of a sentimental revolution.

Marriage for love will gradually replace marriage of convenience during the 19th century, in the same spirit of seeking greater equality between men and women.

It was also in 1792 that civil marriage was introduced for the first time and it became compulsory to unite civilly before being able to unite religiously. It will be necessary to wait until 1884 so that the divorce becomes a legal step.

The 18th century was also the century of chiaroscuro, mixing the worst and the best, with divergent behavior towards marriage, depending on whether one belonged to the upper classes or to the working classes. These divergences are found in the following centuries and up to the present day with the competition between arranged

marriage and marriage of love, between prudishness and sexual freedom, between the submission of women and emancipation.

In the European aristocracy and the upper middle class, Christian marriage and the mutual consent of the spouses are relegated to medieval old-fashioned things, in favor of arranged marriage. It becomes above all a contract between two families who bring together fortunes and titles.

This evolution of marriage goes hand in hand with a significant degradation of the social status of women, noticeable from the end of the Renaissance. For the French or English bourgeois and aristocrats of the Ancien Régime, if it was appropriate to love the wife or the husband to whom one had been bound for life, it was on the other hand considered improper to marry for love.

In France, the marriage of inclination came back into vogue under the Third Republic, at the end of the 19th century. And for the same reasons as under the Revolution, we plead for the right to divorce. We see in it the guarantee of solid unions, based on a sincere attachment and not on coercion. After several attempts, the deputy Alfred Naquet managed to pass the divorce law on July 27, 1884.

Along with the liberalization of marriage, at the turn of the 20th century, the emancipation of women began. They claim to vote and to work. Both in America and in Western Europe, the Trente Glorieuses (1944-1974) bear witness to the development of the nuclear family: a united couple surrounded by two or three children. Women are acquiring the right to vote everywhere and are massively investing in the labor market.

Present

Marriage has always included a set of rights and duties such as fidelity, solidarity and assistance between the spouses. While some rules have remained the same over the years, others have evolved over time, such as the fact that it is now possible for same-sex couples to marry. This has been the case in France since 2013 and the adoption of law 2013-404 opening up marriage to same-sex couples.

Since 1999, still in France, it has also been possible for heterosexual and homosexual couples to conclude a Pacs (Civil Solidarity Pact), a civil union representing an alternative to marriage or a first step before it. This is also a contract made up of rights and duties allowing the organization of the couple's common life, in a form however more flexible than that of marriage.

Background Information

Feminist Critiques of Marriage

Criticisms of marriage are arguments against the practical or moral value of the institution of matrimony or particular forms of matrimony. These have included the effects that marriage has on individual liberty, equality between the sexes, the relation between marriage and violence, philosophical questions about how much control can a government have over its population, the amount of control a person has over another, the financial risk when measured against the divorce rate, and questioning of the necessity to have a relationship sanctioned by government or religious authorities.

Criticism of marriage comes from various cultural movements, including branches of feminism, anarchism, Marxism and queer theory. Feminist activists often point to historical, legal and social inequalities of marriage, family life and divorce in their criticism of marriage. Sheila Cronan claimed that the freedom for women "cannot be won without the abolition of marriage." "The institution of marriage – wrote Marlene Dixon of the Democratic Workers Party – is the chief vehicle for the perpetuation of the oppression of women; it is through the role of the wife that the subjugation of women is maintained". Andrea Dworkin said that marriage as an institution, developed from rape, as a practice. Other notions complement these, among which we find the domination of men, social isolation, violence against women or economic dependence.

The radical wing of the bourgeois feminist movement emerged in Imperial Germany in the early 1890s and ceased to exist as such after the First World War. A minority in the bourgeois women's movement, she stood out for her determination in her demands for equal rights for women in all spheres of life: the right to study and practice skilled trades, to decide for themselves what they will use their talents for, to participate in the decision-making processes relating to life in society and in the State, as well as, for this purpose, the right to vote.

One might think that radical feminists, who placed particular value on women's access to public space, were not particularly interested in the private sphere of

domesticity. However, on closer inspection, it appears that the family and the so-called private sphere constituted one of the central themes of their movement and that, with the political reading that was theirs, they saw there a central issue for the emancipation of women. . In what follows, the analysis of the debates on marriage among German feminists aims to show that these women had fully grasped the political nature of women's subordination in the family and that they brought this subject apparently into the public sphere. private, well before the feminists of the 1960s and 1970s seized upon this thematic complex.

Marriage and Equality

Legislation should guarantee the equal rights and responsibilities of women with men in marriage.

In matrimonial matters, at least, it is clear that women are no longer seen as what men should control to ensure their offspring. Today, the alliance of a man and a woman is forged in other terms and around other issues. No longer control but adherence to a common project. No longer the assurance of descendants but the shared desire for children. No longer subordination but participatory democracy, as has sometimes been written. What allowed all this is due to multiple causalities. Our cognatic system of kinship certainly has something to do with it, but, from a more decisive point of view, there will have been the possibility of female control of procreation.

Female contraception, supplemented by the social acceptance of abortion practices, themselves medically controlled, have transformed motherhood into an expression of personal will where it was only considered as an irrevocable destiny. No longer being primarily a "belly", a belly to be managed, to be dominated by men in duty to ensure their descendants, women have been able to gain personal autonomy and be recognized for statutory equality within our societies. , moreover secularized, democratized, secure and technicalized. This contributes, perhaps decisively, to the emergence of an unconditional "society of individuals". And what is sometimes described as a decline in institutions, including the institution of marriage, is very often

the expression of the occupation of a new space by individuals who are totally individuated, so to speak, in all cases by a "person" in the legal and philosophical sense of the term.

With regard to these elements, the delegates will be asked to rule on matrimonial equality and on a redefinition of the role of women in society, to be understood not only in the sense of wife, but above all as a person whose role is not limited to that which the patriarchal society would like.

The Gendered Division of Domestic Labor

The dynamics of the gendered division of labor involve all areas of social life in a solidary and transversal way: work and employment, family, leisure, urban space, political life, social movements, cultural representations.

This notion was first used by ethnologists to designate a "complementary" distribution of tasks between men and women in the societies they studied: thus, Lévi-Strauss made it the explanatory mechanism for the structuring of the family society. But it was female anthropologists who were the first to give it new content by demonstrating that it reflected not a complementarity of tasks but the relationship of power between men and women (Mathieu, 1991a; Tabet, 1998).

The sexual division of labor is the form of division of social labor arising from the social relations of sex; this form is modulated historically and socially. Its characteristic is the priority assignment of men to the productive sphere and women to the reproductive sphere as well as, simultaneously, the capture by men of functions with high added social value (political, religious, military, etc.). This form of social division of labor has two organizing principles: the principle of separation (there are men's jobs and women's jobs) and the hierarchical principle (a man's job is "worth" more than a woman).

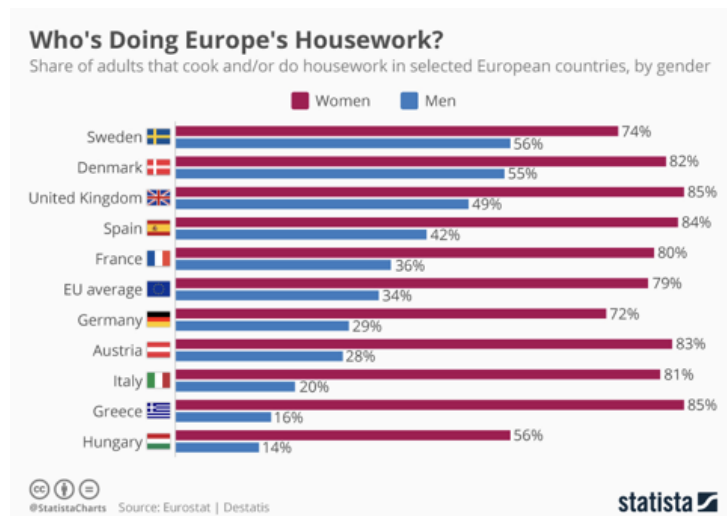
Over time, the institution of patriarchy in terms of marriage begins to disappear from certain cultures, in particular from American culture which has converted to equality between women and men. As a result, the power within the couple now

depends on the comparative resources of the spouses, under the principle "that the best wins". The spouse who can contribute the most to the needs of the other and can contribute more than their share in the marriage sees the power tilted in their favor: not only does he control more resources, but his partner feels a debt to him for what he has already received and dependent for what he will receive in the future. If the husband no longer holds authority simply because he is a man, it is nevertheless still outside the family that marital power is determined. It is based on individual resources that are recognized and valued in the public sphere: professional level, amount of income and social status. From this perspective, the exercise of a paid professional activity by wives increases their power.

But the work is long before real changes can be observed. While much progress has been made in recent years in favor of gender equality, the latest figures from Eurostat and the German Federal Statistical Office remain alarming, and domestic chores are an area where there is still work to be done. On average in the European Union, 79% of women cook and/or take care of household chores every day, compared to only 34% of men. The gap is smallest in Sweden, where 74% of women and 56% of men perform these tasks on a daily basis. In France, the figures are similar to the EU average: 80% of women against 36% of men.

The largest differences are observed in Italy and Greece.

We therefore understand that equality between men and women with regard to domestic work could be achieved by promoting the empowerment of women both in the labor market and in political life.



Relevant UN Treaties/Resolutions

The UN has adopted several resolutions and declarations on gender equality in relation to marriage and the fight against discrimination. Here are some examples :

- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the UN General Assembly in 1979, provides for the elimination of discrimination against women in all areas, including in marriage and family relationships.
- In 1985, the UN General Assembly adopted the Nairobi Strategies for the Advancement of Women, which provide for the elimination of discriminatory laws and customs related to marriage and family relations.
- In 1993, the UN General Assembly adopted the Declaration on the Elimination of Violence against Women, which calls for the elimination of violence against women in all its forms, including in the context of marriage.
- In 2000, the UN General Assembly adopted the Millennium Development Goals, which include a goal to eliminate discrimination against women in all its forms.
- In 2013, the UN General Assembly adopted the resolution on the elimination and prevention of all forms of violence against women and girls, which calls for the elimination of violence against women in all its forms.

These are just a few examples of UN resolutions and declarations related to gender equality and marriage. The United Nations continues to address this issue through various other mechanisms.

With regard to domestic work, the UN has adopted several resolutions and declarations aimed at promoting equality in domestic work and recognizing unpaid domestic work as a form of economic work. Here are some examples :

- In 2011, the United Nations General Assembly adopted a resolution (A/RES/66/170) on "Unpaid domestic work" which recalls that unpaid domestic work is economic work and calls on Member States to recognize it as such.
- In 2013, the United Nations General Assembly adopted a similar resolution (A/RES/68/232).

- In 2017, resolution A/RES/71/204 was adopted, which calls on Member States to take measures to reduce the time spent on unpaid domestic work and to promote gender equality in this area.
- In 2019, the United Nations General Assembly adopted a new resolution (A/RES/74/13) which recalls the above elements.

It is important to note that these resolutions and declarations are non-binding, that is, they are not binding laws for UN member states, but rather guidelines and recommendations to be followed. However, they have an impact on the policies and actions taken by Member States to promote gender equality in the area of domestic work.

Possible Solutions

In line with past actions, and particularly those mentioned above, more concrete solutions must be considered in order to allow gender equality within the framework of marriage. Here are some examples:

- Legal equality: laws must be equal for all couples regardless of gender. Same-sex couples should have the same rights and responsibilities as opposite-sex couples.
- Recognition of de facto unions: de facto unions or civil unions should be recognized and protected by law, regardless of the composition of the couples (same sex, different sexes)
- Gender-sensitive policies: policies should take into account the different roles and responsibilities of men and women in marriage and the family, and strive to equalize them.
- Raising awareness and education: It is important to raise awareness of inequalities and discrimination in marriage and the family, and to encourage them to support gender equality.
- Support for victims of domestic violence: It is important to put in place programs and services to support women victims of domestic violence, to enable them to leave their abusive situations.
- Recognition of family diversity: policies must recognize the diversity of the forms of families and couples existing in societies, in particular single-parent families, homoparental families, blended families, etc.
- Recognition of domestic and care work: domestic and care work must be recognized and valued as an economic activity, and not only as a responsibility of women. Policies must promote an equitable sharing of domestic tasks between men and women, to allow women to have access to professional opportunities and equal access to education.

It is important to note that these solutions are not exhaustive and that there are other actions that can contribute to gender equality in relation to marriage. It is important to consider specific cultural and socio-economic contexts when implementing these solutions to ensure they are effective and responsive to local needs.

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